

1964

was a rallying cry among dedicated conservationists; it was equally available to those who would use every possible device to defeat the reservation of any further lands for park purposes.

Any number of parallel situations may be cited to demonstrate the increasing conflict between and among interests within the conservation family in its broad expanse. The Steamboat Springs project, dear to the hearts of the reclamation branch of the family, founded upon the unavoidable consequence of flooding a part of Dinosaur National Monument. The Glen Canyon reservoir is already beginning to fill, but the bitterness over failure to protect Rainbow Bridge against water intrusion is readily evident in our daily mail. Issues such as these find their outlet in the exercise of highly developed techniques of political pressure.

The issues upon which the conservation community finds itself divided will increase as demands for scarce land increase. The political dimension of conservation has expanded in ever-widening circles as our society and our technology have become increasingly complex. The simple "for" or "against" issue of 1900 now has overtones of the bureaucratic contest for policy supremacy. "Multiple use" becomes a slogan to block the preservation of critically needed recreation values; freedom to locate mineral claims argues against inclusion of a public domain tract in either a forest or a park. Parks supporters are accused of "locking up" resources because they regard public hunting incompatible with park objectives. The pluralism of modern life makes extremely complicated the simple faith which motivated Thoreau, Muir, Powell, and the other prophets of the good life.

Let us now look to the future prospects for conservation as a political issue. Will it drop out of the field because other problems of modern life demand all of our attention? I am convinced that the exact opposite will be the case. Science and technology can change and multiply and stretch the limits of such resources as food and fiber and energy sources. But eventually we get back to the fundamental elements of land and water. Living space for twice our present population will demonstrate the inelasticity of the land surface. Water problems, both qualitative and quantitative, must be attacked promptly and with every scrap of our imagination—for wars have been fought and civilizations have died for its lack. We face a century of intense competition for these elemental resources. Government must inevitably enter as the arbiter. Conservation issues may, therefore, become the dominant ones in public affairs, therefore in politics, in our own generation.

The stewardship of Stewart Udall as Secretary of the Interior has seen a truly remarkable elevation of the level of conservation politics.

First and foremost, he has penetrated the American consciousness of the land and water, and has made conservation a felt philosophy, in and out of Government. President Kennedy's White House Conference on Conservation in 1962 was the first since Teddy Roosevelt, and it caught the public's attention and interest. So did that memorable conservation tour in the beautiful autumn of 1963. Mr. Udall's book "The Quiet Crisis" is thoughtful and deep, and its influence widens month by month.

It takes a great Secretary to be able to manage both the programs for water development and the programs for park and natural value protection, and the public does not even begin to understand how well he has mastered the fundamentals of each, thus freeing himself from the shackles of slogans and rhetoric.

The Secretary sees the relationship of conservation to other social objectives and other Government programs, as witness the conservationist cast of the Job Corps segment of President Johnson's war on poverty.

And he sees beyond the horizon. The land and water conservation fund bill, landmark conservation legislation which must be enacted, will rationalize the hit-or-miss, stop-and-start progress in meeting the national demand for parks and recreation opportunities.

The Pacific Southwest water plan, too, represents statesmanship of a most demanding order.

I commend to you the field of conservation, and the field of politics—separately and together. I love them both.

#### SALVATION ARMY WEEK

Mr. KEATING. Madam President, 84 years have passed since Commissioner George Scott Railton and his seven "Hallelujah Lasses," as they were called, marched into New York and "opened fire" on America. Today the Salvation Army includes 5,000 officers in the United States, 1,300 evangelical centers, and more than 800 institutions and services. Its workers have become known for their selfless devotion, their endless patience, and their consistent optimism.

The Salvation Army, which first won fame in this country by providing the "doughboys" with doughnuts in World War I, and had a major hand in the USO clubs during World War II, does not limit itself to work with the distressed. Army services range from missing persons bureaus and correctional services for prisoners to marital counseling, from rooms for evicted slum dwellers and nurseries for children of working mothers to free soup kitchens and medical and dental care.

The Salvation Army began as a unique adventure in evangelism. The founder of the Army, William Booth, believed in providing "soup and soap" before trying to convert the thousands of forgotten human beings—the alcoholics, the streetwalkers, and the criminals—who were not wanted by organized religion of the time.

This year, while we are ourselves trying to change the face of the "other America," it is particularly appropriate to salute the work of the Salvation Army.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

The Chair lays before the Senate the unfinished business.

#### CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendments (No. 577) proposed by the Senator from Louisiana [Mr. Long] to the amendments (No. 513) proposed by the

Senator from Georgia [Mr. TALMADGE] for himself and other Senators, relating to jury trials in criminal contempt cases.

#### CALL OF THE ROLL

Mr. CHURCH. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 249 Leg.]

Alken	Douglas	Miller
Allott	Ellender	Monroney
Anderson	Fong	Morse
Bartlett	Gruening	Mundt
Bayh	Hickenlooper	Neuberger
Beall	Humphrey	Pearson
Bennett	Inouye	Pell
Bible	Jackson	Proxmire
Burdick	Javits	Ribicoff
Carlson	Jordan, Idaho	Saltmstall
Case	Keating	Simpson
Church	Long, Mo.	Smith
Clark	Mansfield	Sparkman
Cotton	McCarthy	Stennis
Curtis	McGovern	Talmadge
Dirksen	McIntyre	Yarborough
Dodd	Metcalf	Young, N. Dak.

The PRESIDING OFFICER. A quorum is present.

The Chair recognizes the Senator from Georgia.

Mr. TALMADGE. Madam President, I ask unanimous consent that I may yield to the distinguished Senator from Alaska [Mr. GRUENING] with the understanding that my doing so will not affect my right to the floor in any way whatsoever or cause the resumption of my speech to be counted as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### BRING WAR IN SOUTH VIETNAM ALSO TO CONFERENCE TABLE

Mr. GRUENING. Madam President, President Johnson and Ambassador Stevenson are to be highly congratulated for taking a portion of the southeast Asian mess to the United Nations. That is precisely where it belongs. I have so urged ever since March 10, 1964, when I spoke in the Senate and stated that the United States should get out of South Vietnam and immediately pull our troops back from the fighting front.

While the administration's action in the United Nations yesterday was an entering wedge, it has not gone far enough. However, it does mean that the administration which inherited the Vietnam mess from previous administrations has now realized that in southeast Asia we cannot and should not go it alone. It might have done this immediately on taking office, but it is not easy overnight to shake off established—even if mistaken—policy, especially if the same policymaking personnel continues in office.

The solution of the serious problems existing in southeast Asia lies in strict adherence to the Charter of the United Nations calling for collective action by the signatories to the charter and not by individual action. I congratulate President Johnson in having come at least this far.

As James Reston writes in today's New York Times:

11352

## CONGRESSIONAL RECORD — SENATE

May 22

None of this removes the need for defending the principle of collective action. That need is just as great now as it was when the U.N. Charter was written, or when the fighting broke out in Korea or the Congo.

The administration's actions in the United Nations yesterday was hailed today by Max Frankel in the New York Times in these words:

For the first time, also, the United States indicated that it was prepared at any time at least to debate the entire southeast Asia situation, including its own actions, in the world organization.

So far so good. It is high time the United States stopped sabre rattling and restarted to peaceable measures. Why not this procedure for all southeast Asia? Why not stop the killing in South Vietnam now?

The situation—as I have said repeatedly—in South Vietnam is such that it is now threatening the peace of all southeast Asia. Ambassador Stevenson should have gone further. He should have offered solutions along the same lines to end the fighting in South Vietnam where brother is fighting brother and father is fighting son.

It is also a situation where American boys are dying in battle.

It is also a situation that cries out for international solution for the problem which will not be resolved in battle but around a conference table. The United Nations offers such a conference table for us and before the situation deteriorates further we should seize upon this opportunity and lay the matter before the Security Council of the United Nations. If we are thwarted there we should go further and invoke the powers of the General Assembly.

As we go it alone in South Vietnam the situation continues to deteriorate.

The New York Times, in a leading editorial on Thursday, May 21, 1964, occupying more than half its editorial columns, analyzes the deteriorating situation in Indochina and comes to the conclusion that:

We must confront the Communists with options short of unacceptable defeat, options to which they can turn, once some of their leaders begin to conclude that victory may be unattainable or too expensive. In brief, we must define our peace aims.

According to the New York Times editorial, "total victory is beyond our grasp."

This conclusion is reaffirmed by the sombre statement contained in Joseph Alsop's column in the Washington Post and Times Herald on May 20, 1963, to the effect that:

Like a muffled thief in the night, slipping from shadow to deceptive shadow, a great national disaster is creeping up on the United States—and on this poor country [South Vietnam] too. In one night, almost before we know it, we may be overtaken by the disaster that is creeping up on us.

It is heartening to have the New York Times finally take a good hard look at the facts in southeast Asia. Such a reappraisal of our tenuous position in South Vietnam by one of the Nation's leading newspapers is long overdue. I would hope that in the days ahead such reappraisals will take place in our newspapers from coast to coast.

As I have been saying for months now on the floor of the Senate, the problem in South Vietnam is a political and not a military one. The United States cannot impose by military force alone a victory upon South Vietnam. By the same token, the United States cannot achieve peace in Vietnam by interposing bodies of U.S. military men between the Vietnamese and the Vietcong. The lives of American soldiers cannot be used as a substitute for a will to win on the part of the Vietnamese.

The time has long since come to negotiate an honorable way out of our involvement in South Vietnam—in which we are alone involved and in which our so-called allies have given us at most only moral, if any, but no material assistance.

The New York Times states in its editorial:

But an increased military effort alone, without an offer to negotiate, would simply compound the errors of the past.

With this statement, I am in hearty accord. But I would add to it.

In the first place, I would add the suggestion that our military strength should henceforth be maintained only through the South Vietnamese fighting men and our military material. There is no earthly reason for the loss of a single additional American military man on the fighting front in South Vietnam. We have needlessly lost too many American military personnel in battle already. Our so-called advisers should be withdrawn at once from the fighting lines.

In the second place, I would add that negotiations should be begun immediately and that the United States should make it abundantly clear that it is not attempting to make South Vietnam a U.S. colony. I care not whether the immediate negotiations for a peaceful settlement in South Vietnam are begun in the United Nations which, because of Cambodia's complaint against the United States, is already seized with part of the problem in southeast Asia, or through SEATO, which was involved in the 1954 settlement. The medium of negotiations is relatively unimportant. The important point is that we begin negotiations.

In the third place, I would add that there is a definite need for an investigation of why the people of the United States have not been given the facts and why it has been necessary, in the words of the New York Times, for the "harsh facts" of the war in South Vietnam to be "brought to public notice through the enterprise of American newspapermen on the spot." In recent years there has, in my opinion, not been a more flagrant violation of the American people's right to know. The investigation I am calling for should be two pronged.

First, it should investigate to find out whether the true facts of the situation in South Vietnam over the years have been withheld from the American people not for security reasons but to cover up bureaucratic bungling.

Second, and even more important—it should investigate to determine whether there has been a serious failure on the

part of our intelligence apparatus to find out and evaluate accurately the true facts.

In that connection, consider the on-again, off-again type of statements issued by Secretary McNamara after each of his trips to South Vietnam.

On Secretary McNamara's first trip, Homer Bigart cabled to the New York Times on May 11, 1962, from Saigon as follows:

After 48 hours in South Vietnam, Mr. McNamara said he was "tremendously encouraged" by developments. He said the Vietnamese people had more security. He was pleased by the quality of assistance given by the American military and civilian personnel.

His visit left Americans and South Vietnamese with these impressions:

First, the Kennedy administration still is rigidly following its "sink or swim with Diem line."

Second, the administration regards President Ngo Dinh Diem as a remarkable national leader whose loss would be a great setback to the anti-Communist cause in southeast Asia.

Third, the administration believes the American correspondents here are giving a distorted picture to Congress of American involvement in the shooting war.

That was after Secretary McNamara's first visit to South Vietnam.

The official statement on October 3, 1963, from the White House after Secretary McNamara's return from his second visit stated in part:

Secretary McNamara and General Taylor reported their judgment that the major part of the U.S. military task can be completed by the end of 1965, although there may be a continuing requirement for a limited number of U.S. training personnel.

They reported that by the end of this year the U.S. program for training Vietnamese should have progressed to the point where 1,000 U.S. military personnel assigned to South Vietnam can be withdrawn.

The New York Times story by Tad Szulc at that time was headed "Vietnam Victory by the End of 1965 Envisaged by United States; Officials Say War May Be Won if Political Crisis Does Not Hamstring Effort."

Within 3 months Secretary McNamara was back in Saigon, on his third visit, and this time the New York Times story by Hedrick Smith on December 21, 1963, was headed: "United States Drops Plans for 1965 Recall of Vietnam Force."

In the story there appears this significant paragraph:

Some diplomatic observers maintained that the goal, announced by the White House early in October, was never meant as an inflexible commitment. They suggested that it was intended primarily for domestic political purposes.

And now we come to Secretary McNamara's latest excursion, his fourth, to South Vietnam earlier this month. This time the New York Times story by Jack Raymond on May 15, 1964, was headed: "McNamara Urges Further Aid for U.S. Aid for Vietnam War; Back From Saigon, He Gives President a Plan To Send More Money and Men."

It is obvious from these accounts that the American people have been misled. Whether this was deliberate or whether those issuing the statements were not



1964

## CONGRESSIONAL RECORD — SENATE

11353

given accurate appraisals of the situation is a question the answer to which the American public has a right to know.

Following this latest visit to South Vietnam, and Secretary McNamara's recommendations, President Johnson last Monday sent to the Congress a special message requesting an increase of \$125 million in the amount to be authorized to be appropriated for economic and military assistance to South Vietnam for the 1965 fiscal year beginning July 1, 1964. Both Secretary Rusk and Secretary McNamara, testifying before the House Committee on Foreign Affairs, urged the speedy approval of this request. That committee approved the request last Wednesday.

The President's message is even more puzzling when put in the context of reports recently emanating from Saigon.

In a news story by the Associated Press from Saigon dated May 7, 1964, printed the next day in the New York Times, Premier Khanh is reported as saying:

But he (Khanh) said American aid—which involves 16,000 men and money at the rate of \$500 million a year—was adequate at this stage and he had no plans to ask Defense Secretary Robert S. McNamara for more when he visits Saigon again next week.

The New York Times, in a story from Washington by Jack Raymond dated May 14—10 days after Khanh's statement—starts off as follows:

Secretary of Defense Robert S. McNamara laid before President Johnson today a new plan for increased military and economic support for South Vietnam.

Four days later the President sent to the Congress a message requesting the authorization of an additional \$125 million in economic and military aid for South Vietnam.

Who wants this aid: Secretary McNamara or Premier Khanh?

I am still more puzzled by other implications of the President's message.

It can have three possible purposes.

As the New York Times characterizes it, it could have as its purpose that of giving the morale of the South Vietnamese a psychological boost.

It could also have as its purpose the attempt to create the myth that the foreign aid budget for fiscal year 1965 is irreducible. If this is so, then it will not stand up to objective scrutiny.

In the first place, the amount requested to be authorized to be appropriated—\$3.4 billion—is larger by \$400 million than the amount appropriated for the foreign aid program for the current fiscal year. Which new programs included in the \$400 million increase—and in what countries—are so very important that they cannot be cut by the \$70 million additional assistance which the President says South Vietnam needs for its economic development?

As anyone who has studied the foreign aid program knows—and as has been repeatedly brought out here on the floor of the Senate—the foreign aid budget submission for fiscal year 1965—as it has been in the past—is only an illustrative budget and not a firm budget as is submitted with respect to domestic programs. This means that the AID administrators are saying to the Congress,

for example, that with the money given them they will carry out projects A, B, C, and D in countries W, X, Y, and Z. This statement, however, is preceded by a big caveat. The AID administrators tell the Congress repeatedly, firmly, and unmistakably that they are not to be held to these illustrations. During the year we may find it more advantageous to do projects E, F, G, and H in an entirely different group of countries.

This is known as the illustrative budget.

It is not permitted for domestic programs.

The AID administrators have resisted for years all attempts to require them to submit firm budgets to which they would be held accountable. The reasons given by these administrators for resisting the submission of firm budgets to Congress is their claim that in an ever changing world it is impossible for them to tell the Congress with reliable certainty in May for what purposes they will have to spend the appropriated foreign aid money in the following May or even November.

So, on the one hand, the AID administrators are saying to the Congress that they cannot submit firm budgets to the Congress because they need flexibility—maneuverability—and the ability to react instantly to events anywhere in the world.

Meanwhile, on the other hand, the President is telling the Congress that every penny of the \$3.4 billion requested of the Congress for the next fiscal year cannot be decreased a few million from one country's program and a few million from another country's program to accumulate \$125 million he says is vitally needed for South Vietnam.

The AID administrators cannot have it both ways. And also the timetable is all wrong.

Why the rush with this \$125 million authorization?

We are dealing with a foreign aid authorization request for fiscal year 1965. With the parliamentary situation in the Senate being what it is, there is no possibility of early action on the authorization for some little time yet. And then there will have to come the appropriations. But meanwhile, there will probably be a continuing authorization enabling aid to go forward at not to exceed the rate for fiscal year 1964, \$3 billion. What early advantage is to be gained by rushing the House Committee on Foreign Affairs to approve an authorization bill for \$3.525 billion instead of \$3.4 billion?

One advantage would be to create the myth of the irreducible foreign aid budget.

Another advantage is to get Congress to sign on the dotted line a blank check approval for an escalated war in South Vietnam.

This disturbs me greatly. I object strenuously if this message signals a decision to escalate the intensity of McNamara's war in South Vietnam—a war which cannot be won by military fighting in the steaming jungles of South Vietnam or by burning alive with napalm bombs inhabitants of entire villages in the hope that some of them may be Com-

munist Vietcong fighters—a war in which all too many U.S. fighting men have been maimed or killed—a war which is not worth the life of a single additional American soldier—a war which all impartial students of the problem agree can only be settled at the conference table and not on the battlefield.

I repeat, Madam President, the time has come to withdraw our fighting men from the frontlines in South Vietnam and to begin at once to settle the problem of South Vietnam and of southeast Asia at the conference table where we have a chance to achieve peace in that area of the world rather than to escalate our military efforts which can at best achieve only a military stalemate, but which will in any event cost us dearly in lives of our servicemen.

Since making my first major speech in the Senate on the March 10, 1964, my mail has been heavy on the subject of Vietnam running about 100 to 1 in favor of my position. What are the American people saying about the U.S. position in Vietnam?

This is an excerpt from a letter from a couple in Webster, N.Y.:

We hope you will continue to use your influence in changing the present southeast Asian policy away from support of this senseless and brutal war. It is our hope that Government leaders might at least consider negotiation and possible neutralization of the area. We deplore the present sterile and unrealistic position.

A professor at the University of Pennsylvania writes:

I deeply admire your stand on Vietnam, and believe it would be supported by most Americans if they truly understood the situation there. Against tremendous numerical and material odds, the guerrillas have been fighting, suffering, and dying in steadily increasing numbers. People do not behave in this way, year in and year out, simply at the behest of some outside master, whether Communist or otherwise. We can understand what is happening in Vietnam today only if we recognize the basic fact that the guerrillas are not opportunists, are not mercenaries for an outside power, but are willing to endure enormous sacrifice and suffering because they themselves believe firmly in the rightness of what they are doing.

From the Secretary of a Farmers Union local in Minnesota comes the following plea:

For the last 2 years the Minnesota Farmers Union has in its bylaws that any issues endangering peace should immediately be brought before the United Nations. In the interests of world peace, and with the recognition of the right of all nations to develop their own resources and form of government, we urge that the United Nations be called on to supervise a cease fire so as to enable our forces to return home.

Another professor at the University of Pennsylvania writes:

I think it is one more dangerous myth that we are in Vietnam to uphold a vital part of the "free world." The truth about Vietnam—about its origins, its political composition, and our own role—have too long been buried.

From a noted anti-Communist South Vietnamese author, now living in Paris—Tran-Van-Tung—comes a thoughtful analysis of the problems in part reading:

For my part, I am convinced that if America is genuinely interested in helping Vietnam defend her freedom and independence against the Communist menace, she must help us to install a representative civilian government with the participation of all the foremost Nationalist leaders in the very shortest time possible. With genuine representation embodied in government under the leaders who have earned real popular support by their long and dedicated struggle against communism, dictatorship and feudalism, we can assure a renaissance of the national spirit. A Nationalist Government can create the atmosphere of purpose and dedication—so sorely lacking today—that can turn the tide against the Communist aggressors.

I could go on at great length reading from the hundreds of letters I have received in the same vein from almost every State in the Union. In the interests of time these brief excerpts must serve as illustrative of the views of thinking Americans in various parts of the country who are genuinely concerned over our being in South Vietnam at all and anxious that the war there not be escalated.

In the various newspaper accounts, I find the repeated use of the word "fragile" as applied to the situation in southeast Asia. That is probably an appropriately descriptive adjective. It is "fragile" which means easy to break, or likely to break. Our policymakers should hasten to get the problems to the United Nations conference table lest what is fragile be irreparably shattered. Every day lost may well mean the loss of more American lives.

Madam President, I ask unanimous consent to have the editorial published in the New York Times of Wednesday, May 20, 1964, as well as various articles, newspaper reports, and telegrams on the crisis in South Vietnam, and the letter from Tran-Van-Tung, printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 21, 1964]

#### NEW PHASE IN VIETNAM

The crisis in Laos, Cambodia's arraignment of the United States in the Security Council and President Johnson's request for sharply increased aid to South Vietnam are all coincidental; but they are also interrelated.

In Laos, Washington has no alternative but to try to save what remains of the 1962 settlement. The trouble with that settlement has not been that it neutralized Laos, but that it failed to neutralize it completely. Laos has remained a source of East-West conflict because of its lengthy common border with Vietnam and its use by the Communists as a protected military highway for the Vietcong. It always has been clear that the 1962 cease-fire in Laos would remain fragile as long as the war in Vietnam continued.

The Cambodian problem also stems primarily from the Vietnamese war. The recent border incidents now under debate in the United Nations are only part of the problem. The real difficulty with Prince Sihanouk—who has canceled American aid and sought better relations with Peiping—is that he has become pessimistic about halting the Communist advance in neighboring South Vietnam.

The past year has thus seen a steady deterioration in all three of the non-Communist successor states which the United States,

since the 1954 collapse of French hegemony in Indochina, has sought to preserve from Communist absorption. But the core of the problem is Vietnam. And that problem now is entering a new phase.

Only a year ago high American officials still regarded the military outlook in South Vietnam with optimism—or said they did. The war, we were told, was being "won." As late as October, it was officially predicted that the Vietcong could be largely "suppressed" by the end of 1965. And it was announced that all but a handful of American troops would be home by then.

We do not say that there was deliberate deception of the American people in these announcements; but it is clear that the harsh facts of the war in South Vietnam were only brought to public notice through the enterprise of American newspapermen on the spot. Within only the limits of military security, the American people are entitled to know frankly from their own Government what goes on in Vietnam.

In any event, there has been quite a different tone in recent weeks. Secretary McNamara now predicts "a long, hard, difficult war" and correctly points out that "there can be no such thing as a purely 'military' solution of the war in South Vietnam." The American objective now, as stated by the White House, is "to bring Communist aggression and terrorism under control."

In these circumstances, it is of great importance that we frankly recognize limited, realistic objectives. Total victory is beyond our grasp; but it is within our capability to deny victory to the Communists—and to increase their costs and difficulties. If we demonstrate that we will make whatever military and political effort that requires, the Communists sooner or later will also recognize reality.

President Johnson's plan for \$125 million of additional American military and economic support for Saigon is as important for psychological as for military effect. We may have to do considerably more, as well as to keep open our option to punish North Vietnam directly if the war intensifies. But it would be a mistake to enlarge the war further without establishing a reasonable, limited objective for its settlement.

From its beginning in 1961, the program of American military intervention on the Asian mainland in Vietnam has been designed to help the South Vietnamese fight their own war, rather than to fight it for them. But American intervention was followed by an increased Communist effort. The result so far has been merely to enlarge the guerrilla war without changing the real balance of forces. Further increase in American aid could simply mean another frustrating spin around this vicious circle—unless, at the very same time, we begin to open the way toward a peaceful settlement.

We must confront the Communists with options short of unacceptable defeat, options to which they can turn, once some of their leaders begin to conclude that victory may be unattainable or too expensive. In brief, we must define our peace aims.

Secretary McNamara has already made it clear that the United States seeks neither to establish bases in South Vietnam nor to enroll Saigon in any Western alliance. He has also said that "we have no objection in principle to neutrality in the sense of non-alignment." And Secretaries McNamara and Rusk both have indicated that the United States is prepared to abide by the Geneva accords of 1954, which neutralized all the Indochina states, including Communist North Vietnam. As a result of these accords, French troops and 120,000 Communist guerrillas were withdrawn from South Vietnam. While neutralization can hardly be said to have been a roaring success in Laos, the story might be different if neutralization

could ultimately be applied to all of what was formerly French Indochina.

It would be wise to hold forth, as well, the prospect of normal trade for North Vietnam both with South Vietnam and with the West. North Vietnam cannot feed itself. The war has been accompanied by critical food shortages, an economic crisis, and increasing dependence on the Chinese—whom all Vietnamese traditionally fear. The possibility of a peace that would reverse this trend could well be a serious incentive to the Hanoi hierarchy.

To suggest this does not mean that we can afford, in the meanwhile, to lessen our military effort in South Vietnam. Quite the contrary: we must make it clear to the world that we are willing and able to wage war as well as to negotiate for peace.

Whether in waging war or negotiating peace, the United States would benefit from additional allied support in Vietnam; and attempts are being made to obtain it. But such attempts will not get very far if our allies suspect our purposes is to prolong or expand the war in search of an unattainable victory. We must make clear our willingness at the proper moment to seek a political settlement based, of course, on a non-Communist South Vietnam, independent, neutral—free of Communist guerrillas as well as of foreign troops and bases—and guaranteed by the Great Powers. We must make it clear that we are fighting to get out of, not to stay in, South Vietnam. The aim should be a return to the Geneva settlement of 1954, an objective that might even be supported by the French. In a little-noticed statement a few weeks ago, Foreign Minister Couve de Murville indicated that this is really what President de Gaulle has in mind.

American willingness to negotiate on this basis will not necessarily bring peace quickly, or even a negotiation. Military force is essential if the Communists are to be brought to the conference table and a reasonable settlement extracted. But an increased military effort alone, without an offer to negotiate, would simply compound the errors of the past.

[From the New York Times, May 12, 1962]  
McNAMARA TELLS SAIGON AID AMPLIFIED: SAYS IT IS AT PEAK AND WILL LEVEL OFF—DIEM'S FIGHT AGAINST REDS HAILED

(By Homer Bigart)

SAIGON, VIETNAM, May 11.—U.S. aid to South Vietnam has reached a peak and will start to level off, Robert S. McNamara, Defense Secretary, disclosed today.

Before departing for Washington, Mr. McNamara said he doubted whether U.S. military personnel assigned to South Vietnam would be increased above the present levels of strength.

There are more than 6,000 American servicemen advising, training and supporting South Vietnamese forces in the struggle against the Communist guerrillas. An additional 1,000 or more American servicemen are believed to be either en route or destined for shipment.

The flow of war materiel will not be increased, barring unexpected setbacks in the domestic struggle or overt aggression from the Communist bloc, Mr. McNamara indicated.

After 48 hours in South Vietnam, Mr. McNamara said he was "tremendously encouraged" by developments. He said the Vietnamese people had more security. He was pleased by the quality of assistance given by the American military and civilian personnel.

He had visited some strategic hamlets and training areas for the civil guard and self-defense corps and had found "nothing but progress and hope for the future."



1964

## CONGRESSIONAL RECORD — SENATE

11355

His visit left Americans and South Vietnamese with these impressions:

First, the Kennedy administration still is rigidly following its "sink or swim with Diem line."

Second, the administration regards President Ngo Dinh Diem as a remarkable national leader whose loss would be a great setback to the anti-Communist cause in southeast Asia.

Third, the administration believes the American correspondents here are giving a distorted picture to Congress of American involvement in the shooting war. The administration feels the reporters are magnifying incidents where American servicemen find themselves in combat situations and are writing too much about American casualties.

#### DELAYS IN NEWS CHARGED

The correspondents petitioned Mr. McNamara to ease the U.S. information policy. They are convinced information on American casualties is being withheld or at least subjected to unnecessary delays.

They complained that South Vietnamese officers had intervened successfully to prevent the correspondents from riding on U.S. helicopters engaged in transporting combat units to battlefields.

Mr. McNamara listened sympathetically. At an airport news conference, he said his optimism over the security situation was based on the effectiveness of the strategic villages that are springing up all over South Vietnam and on the improved training of the Civil Guard and Self-Defense Corps.

Other Americans here are impatient for a comprehensive plan for the pacification of the Mekong Delta provinces. But Mr. McNamara seemed content with the small resettlement operation he visited in An Xuyen Province. There 11,000 South Vietnamese in a Communist-controlled area had been moved forcibly or voluntarily into a military zone controlled by the 31st Regiment.

#### GUERRILLA ACTIVITY OFF

Mr. McNamara was told there had been a sharp falloff in guerrilla activity in the area.

Despite his cheerful assessment, Mr. McNamara is reported to hold realistic views on the probable length of the war. He is said to feel that years will pass before South Vietnam is secure.

Asked if he had evidence of infiltration from Communist North Vietnam by way of Laos, Mr. McNamara replied:

"Without qualifications, the answer is yes. I have seen, during my visit here munitions which were manufactured in Communist China and brought into South Vietnam, presumably through the Laotian border. I have seen other evidence of infiltration, some of it gathered by U.S. personnel."

Gen. Lyman L. Lemnitzer, Chairman of the U.S. Joint Chiefs of Staff, who accompanied Mr. McNamara, said he had detected a greater feeling of self-confidence among the Civil Guard and Self-Defense units. They are getting improved training and are losing fewer weapons under attack, he said.

[From the New York Times, Dec. 21, 1963]  
UNITED STATES DROPS PLANS FOR 1965 RECALL OF VIETNAM FORCE; McNAMARA ASSURES JUNTA TROOPS WILL STAY AS LONG AS WANTED AND NEEDED—JOHNSON SENDS PLEDGE

(By Hendrick Smith)

SAIGON, SOUTH VIETNAM, December 20.—Secretary of Defense Robert S. McNamara gave South Vietnam's leaders a pledge of support from President Johnson today. The United States will back the war against Communist guerrillas as long as its help is needed and wanted, the Vietnamese leaders were told.

According to reliable sources, the message did not specifically mention any date for the

withdrawal of American forces, but in effect it eliminated the previously announced goal of withdrawing most of them by the end of 1965.

Secretary McNamara also sought to allay Vietnamese fears that the United States might permit proposals for neutralizing Vietnam to become the subject of a possible international conference on Cambodian neutrality.

#### SAIGON FEARS CONFERENCE

Vietnamese leaders have feared that if such a conference were held, it would seriously undercut the morale of the Vietnamese Army and help fan support here for a neutral Vietnam.

Mr. McNamara delivered President Johnson's assurances orally in a closed session with Maj. Gen. Duong Van Minh, Chairman of the Military Revolutionary Council, and other leaders of the ruling junta.

Even before today, key U.S. officials were saying privately that with a recent sharp deterioration in the war effort, the 1965 troop withdrawal goal was unrealistic.

Some diplomatic observers maintained that the goal, announced by the White House early in October, was never meant as an inflexible commitment. They suggested that it was intended primarily for domestic political purposes.

In today's meeting the generals were reported to have asked Mr. McNamara about an editorial in the New York Times December 8, suggesting discussions on Vietnamese neutrality.

The generals wanted to know whether this represented Washington's policy, and they were given assurances that it did not. U.S. officials were reported to have said that if a conference about Cambodia were held, Washington would insist that it be limited to Cambodia and that the conference would not mean any change in the U.S. commitment to the war here.

But these assurances were understood to have fallen short of a categorical declaration that the United States would not under any circumstances back or attend a conference on Cambodian neutrality.

#### THREE MEETINGS ARE HELD

Mr. McNamara met three times with the junta leaders last night and today. The sessions were also attended by Henry Cabot Lodge, the U.S. Ambassador; John A. McCone, Director of the Central Intelligence Agency; William P. Bundy, Assistant Secretary of Defense for International Security Affairs; and Gen. Paul D. Harkins, commander of the U.S. forces in South Vietnam.

In the final session at General Minh's office, Mr. McNamara, Mr. McCone, and Mr. Lodge met privately with General Minh and two other junta leaders—Maj. Gen. Tran Van Don, the Defense Minister, and Maj. Gen. Le Van Kim, secretary general of the junta, who is considered General Minh's right-hand man. Nguyen Ngoc Tho, Premier of the provisional Government, also attended.

Earlier, most of the junta—15 generals—attended a 2-hour session of free give and take.

After the final meeting, which lasted an hour, Mr. McNamara held a closing strategy conference with U.S. officials at their military command headquarters. In the evening he left on an Air Force jet for Honolulu.

Before boarding his plane, Mr. McNamara issued a terse statement that was considered reserved and cautious in its comments about the course of the war.

#### OPTIMISM IS QUALIFIED

Mr. McNamara said he had thoroughly discussed with U.S. officials the American program for "providing training and logistical support to the South Vietnamese war effort" and had heard the Vietnamese gen-

erals "explain in detail their program for 1964."

Although Mr. McNamara said he was "optimistic as to the progress that can be made during the coming year," he carefully qualified his optimism and avoided expressing confidence that the war situation would improve.

#### STUDENTS JEER FRANCE

The issue of Vietnamese neutrality also aroused a demonstration in Saigon today. Several thousand Vietnamese students, in a light-hearted mood, marched on the French Embassy to demonstrate against President de Gaulle's proposals for neutrality and unification with Communist North Vietnam.

One student said, "We'd like to do a Jakarta," a reference to the recent sacking and burning of the British Embassy in Jakarta by Indonesian demonstrators opposed to Malaysia. But there was no violence.

The crowd, composed of boys and girls from the Government-run high schools and Saigon University students, was shouting, cheering, and laughing as it trooped along the sunny boulevards, first to the Embassy and then to the French Cultural Center.

#### STATEMENTS PRESENTED

After about an hour three student leaders, escorted by four Vietnamese soldiers and two police commissioners, went to the Embassy gate and asked to present a statement to French officials. They saw the chargé d'affaires, Georges Ferruche.

#### BATTLE PACE ACCELERATED

SAIGON, December 20.—Secretary McNamara will confer in Honolulu with Adm. Harry D. Felt, commander of U.S. forces in the Pacific, and will then return to Washington.

During his visit here, South Vietnamese forces stepped up their activity against the Vietcong guerrillas. An American spokesman said that there had been no significant contact, but that "with major operations in the Mekong Delta and north of Saigon, we can expect fireworks in the near future."

There are reports that the ruling junta, which has been accused by some U.S. officials of concentrating on politics at the expense of the war, is planning now to change its tactics and concentrate striking power in key regions until they are fully pacified.

Some regions—particularly the Mekong Delta and the country's southern tip, where the Communist hold is strongest—would be left temporarily under the control of the Vietcong.

"But this won't be for long," a Vietnamese officer said. "As we pacify the key regions, we will move out and get them."

Although Secretary McNamara, after a visit 3 months ago, said he believed the Vietnamese could handle the Communists without the present massive U.S. help, American officials now express concern.

"If things don't get moving in 90 days we are lost," one American official said.

A U.S. spokesman put the American combat-death toll at 89 after an unsuccessful search for the pilot of a fighter-bomber that crashed on a dive-bombing run early in October.

[From the New York Times, Oct. 3, 1963]  
VIETNAM VICTORY BY THE END OF 1965 ENVISAGED BY UNITED STATES: OFFICIALS SAY WAR MAY BE WON IF POLITICAL CRISIS DOES NOT HAMSTRING EFFORT—WARN ON REPRESSION: McNAMARA AND TAYLOR TELL THE PRESIDENT AND SECURITY COUNCIL OF THEIR MISSION

(By Tad Szulc)

WASHINGTON, October 2.—The United States said tonight that the war in South Vietnam might be won by the end of 1965

if the political crisis there did not significantly affect the military effort.

A formal statement of U.S. policy, approved by President Kennedy after a National Security Council meeting at the White House, warned that while repressive actions by the Saigon regime had not yet "significantly affected" the war effort, "they could do so in the future."

It said that under the present conditions most of the 14,000 U.S. military personnel could be withdrawn from Vietnam by the end of 1965 and that 1,000 men might be able to leave by the end of this year.

"The political situation in South Vietnam remains deeply serious," the statement said.

#### BASED ON RECOMMENDATIONS

The policy statement was approved on the basis of recommendations from Secretary of Defense Robert S. McNamara, Gen. Maxwell D. Taylor, Chairman of the Joint Chiefs of Staff, and Henry Cabot Lodge, Ambassador to South Vietnam.

Mr. McNamara and General Taylor returned here early today from a week-long factfinding mission in Vietnam on President Kennedy's orders.

The mission was designed to evaluate the military and political situations in the Southeast Asian country, with particular emphasis on whether the political crisis, stemming from the regime's repression of its Buddhist and other opponents, is affecting the 8-year-old war against the Communist Vietcong guerrillas.

#### POLICY MAY BE REVIEWED

Essentially, the object of the mission was to try to resolve the profound differences within the administration over the state of affairs in South Vietnam and the future course of U.S. policy there.

The statement, which was read to newsmen by Pierre Salinger, White House press secretary, after the 50-minute meeting of the National Security Council, deliberately avoided committing the United States to a frozen position toward the regime of President Ngo Dinh Diem.

Administration quarters said later that while the present decision was to maintain military and economic aid to South Vietnam at its present levels, this policy would come under review at any time if it became clear that, indeed, the political crisis was seriously damaging the conduct of the war.

In that sense, it was acknowledged, the United States was, in effect, placing the Diem regime on notice that it might have to reconsider its support for South Vietnam if adequate measures were not taken to redress the political situation.

Officials said that although the policy statement deliberately avoided making a formal judgment that the war could not be won without a meaningful political change in Saigon, the implication was there for President Diem to see.

The statement said that U.S. policy remained one of "working with the people and Government of South Vietnam to deny this country to communism," but added significantly that "effective performance in this undertaking is the central object of our policy in South Vietnam."

It said that the United States sought to support Vietnamese efforts to defeat "aggression" as well as "to build a peaceful and free society."

"The United States has made clear its continuing opposition to any repressive actions in South Vietnam," it said.

Up to now, the statement said, the McNamara-Taylor mission found that "the military program in South Vietnam has made progress and is sound in principle, though improvements are being energetically sought."

It said that "major U.S. assistance" was needed only until the Communist insur-

gency had been suppressed or until Vietnamese forces "are capable of suppressing it."

Mr. McNamara and General Taylor were reported to believe that "the major part" of the U.S. military task could be completed by the end of 1965, although a limited number of training personnel might still be required.

By the end of this year, the statement said, the training program for the South Vietnamese forces should have progressed to the point where 1,000 U.S. personnel can be withdrawn from the country, in the opinion of Mr. McNamara and General Taylor.

U.S. military strength in South Vietnam has risen from 685 men in early 1961 to more than 14,000 men at this time. The buildup began after General Taylor's first mission to Vietnam in 1961.

Mr. McNamara and General Taylor went into a top-secret White House meeting shortly after 6 p.m., about 12 hours after their return here from a weeklong factfinding mission in Vietnam.

They had given Mr. Kennedy a preliminary briefing at a morning conference. The President then called the Council meeting for the early evening.

#### WHITE HOUSE STATEMENT ON VIETNAM

(Following is the text of a statement read by the White House press secretary, Pierre Salinger, after a meeting of the National Security Council today.)

WASHINGTON, October 2.—"Secretary McNamara and General Taylor reported to the President this morning and to the National Security Council this afternoon. Their report included a number of classified findings and recommendations which will be the subject of further review and action."

"Their basic presentation was endorsed by all members of the Security Council and the following statement of U.S. policy was approved by the President on the basis of recommendations received from them and from Ambassador Lodge.

"The security of South Vietnam is a major interest of the United States as of other free nations. We will adhere to our policy of working with the people and Government of South Vietnam to deny this country to communism and to suppress the externally stimulated and supported insurgency of the Vietcong as promptly as possible. Effective performance in this undertaking is the central object of our policy in South Vietnam."

"The military program in South Vietnam has made progress and is sound in principle, though improvements are being energetically sought."

"Major U.S. assistance in support of this military effort is needed only until the insurgency has been suppressed or until the national security forces of the Government of South Vietnam are capable of suppressing it."

"Secretary McNamara and General Taylor reported their judgment that the major part of the U.S. military task can be completed by the end of 1965, although there may be a continuing requirement for a limited number of U.S. training personnel."

"They reported that by the end of this year the U.S. program for training Vietnamese should have progressed to the point where 1,000 U.S. military personnel assigned to South Vietnam can be withdrawn."

"The political situation in South Vietnam remains deeply serious. The United States has made clear its continuing opposition to any repressive actions in South Vietnam. While such actions have not yet significantly affected the military effort, they could do so in the future."

"It remains the policy of the United States in South Vietnam, as in other parts of the world, to support the efforts of the people of that country to defeat aggression and to build a peaceful and free society."

[From the New York Times, May 15, 1964]  
McNAMARA URGES FURTHER U.S. AID FOR VIETNAM WAR; BACK FROM SAIGON, HE GIVES PRESIDENT A PLAN TO SEND MORE MONEY AND MEN—DEFENSE CHIEF SAYS VIETCONG CAN UNDERMINE REGIME IF COUNTERATTACK IS WEAK

(By Jack Raymond)

WASHINGTON, May 14.—Secretary of Defense Robert S. McNamara laid before President Johnson today a new plan for increased military and economic support for South Vietnam.

Accelerated Communist activity will require expanded U.S. support, particularly to increase the size of the South Vietnamese Air Force, Mr. McNamara said at a news conference after reporting to the President. This may require modest increases in the number of U.S. training personnel in South Vietnam, he added.

The Defense Secretary repeated earlier predictions of ultimate victory against the Communist insurgency.

"But I want to emphasize it is not going to come soon," he said. "This is not that kind of war. This is a war for the confidence of the people and the security of those people, and that kind of war is a long, hard war."

#### TALKS LAST HOUR AND HALF

The Defense Secretary and Gen. Maxwell D. Taylor, Chairman of the Joint Chiefs of Staff, reported to President Johnson and his aids for 1½ hours, shortly after returning from their Saigon mission. It was Mr. McNamara's fifth trip to Vietnam.

Mr. McNamara, with General Taylor by his side, afterward met reporters in the Fish Room of the White House. He said that the Communists in Vietnam had increased their terrorist activities in recent weeks, and explained that his proposals for increased support to the government of Nguyen Khanh were being considered.

He noted that this might involve sending more American troops.

Additional meetings with the President on the topic have been scheduled for tomorrow and the next day, Mr. McNamara said.

#### POLICE UNITS WILL RETURN

The United States withdrew 1,000 men from South Vietnam at the end of last year, leaving 15,500. Two military police units are due to be returned, however, in addition to more training personnel for the Air Force.

The role of U.S. military forces in South Vietnam is officially characterized as the providing of training and logistical support. U.S. pilots and ground soldiers go into the combat zones, however, and are authorized to fire when fired upon.

According to the latest official estimates, 128 Americans have been killed by hostile action in South Vietnam since January 1, 1961. In addition, 87 casualties have been suffered in actions not attributed to the enemy. The number of wounded is officially estimated at 854 and 9 persons are missing.

In funds, the American effort in South Vietnam is costing \$500 million a year.

The Defense Secretary also disclosed that he had been summoned to appear before the House Armed Services Committee at a closed hearing next Tuesday.

The committee has made known that it wishes to question Mr. McNamara on charge that the U.S. propeller-driven airplanes in South Vietnam are obsolescent and have caused the deaths of American pilots.

The Secretary of the Air Force, Eugene M. Zuckert, denied the charges yesterday. Mr. McNamara himself said at the airport, when he arrived this morning, that the aircraft being used in South Vietnam were "we chosen for the purpose in hand."

"I think it is necessary again to emphasize that this is an antiguerrilla war," he said.



1964

## CONGRESSIONAL RECORD — SENATE

11357

The Secretary's comment was in answer to remarks on the fact that the United States does not use modern jet fighter aircraft in South Vietnam.

The United States is not a signatory to the Geneva agreements of 1954 that ended the French-Indochina war. The agreements provide that no modern jet aircraft be introduced into the area.

Washington has, however, indicated its intention to abide by the agreement. In recent days, nevertheless, the official position has stressed not the Geneva agreements but the tactical requirements of the terrain.

It was announced yesterday that 75 Douglas Skyraiders, designated A-1H and A-1E, were being sent to South Vietnam to replace the B-26 fighter-bombers that were recently withdrawn and the T-28 trainers still in use. The Skyraider is a propeller plane.

The United States does, however, have two types of jet aircraft in South Vietnam. A few RF-101 reconnaissance jets have been flying photo missions. In addition, U-2 planes have used South Vietnamese airfields for mapping missions that presumably cover much of southeast Asia.

Secretary McNamara, discussing the accelerated Vietcong attacks, said that they were directed primarily at the rural population to erode confidence in the protective effort of the Saigon government.

With the rate of kidnappings, murders, and ambushes increasing "very substantially" in recent weeks, the Secretary said, it is "absolutely essential" for the Government of South Vietnam to increase its counterattacking activity. He said it was also vital "that we consider ways and means through increased economic assistance, increased military support to assist the Government of Vietnam."

Asked whether the plan to step up U.S. support made "obsolete" the previously announced plan to withdraw most U.S. forces by 1965, Secretary McNamara answered, as he has in the past, that "our primary function is one of training, support, and logistical assistance."

As the U.S. units complete their training work, they will be withdrawn, he said.

"It may be necessary, in order to expand the training, particularly for the increases in the regular and paramilitary forces of South Vietnam, to send over certain additional U.S. personnel," he said. "If that becomes necessary, they will be sent for that purpose."

The Secretary thus again made clear that the United States was no longer bound by the earlier forecast.

#### KHANH HONORS AMERICANS

SAIGON, SOUTH VIETNAM, May 14.—Maj. Gen. Nguyen Khanh paid formal tribute today to the Americans who have died defending South Vietnam from the Communist guerrillas.

He awarded the medal of the Commander of the National Order of Vietnam to Maj. Gen. Charles J. Timmes, retiring chief of the Military Assistance Advisory Group in South Vietnam.

The citation to General Timmes said he had showed "a praiseworthy spirit of cooperation."

Turning to the American officers present, Premier Khanh said, "If the task is difficult on the Vietnamese side, it is much more so for you, our American friends, who have come to fight on our side."

"I want to say here how much we appreciate your many sacrifices. More than 300 American heroes have given their lives to this land. Be proud of them. They have died so that millions of Vietnamese remain free."

#### HARKINS ATTENDS CEREMONY

The award ceremony for General Timmes was attended by Gen. Paul D. Harkins, out-

going commanding general of the American Military Assistance Command, which was recently enlarged to include the functions of the Military Assistance Advisory Group.

Meanwhile, in a move aimed at tempering religious conflicts between Buddhists and Roman Catholics in central Vietnam, the Justice Ministry today announced the postponement of the trial of former Maj. Dang Sy, commander of troops that fired upon Buddhist demonstrators in Hue a year ago.

The Government said the trial would be postponed from Monday until after the Buddhist celebrations set for May 26.

[From the New York Times, May 15, 1964]

#### TEXT OF THE McNAMARA-TAYLOR NEWS CONFERENCE

WASHINGTON, May 14.—Following is the text of the remarks about Vietnam by Secretary of Defense Robert S. McNamara and Gen. Maxwell D. Taylor, Chairman of Joint Chiefs of Staff, at a news conference in the White House today:

MR. McNAMARA. Good morning, ladies and gentlemen. Perhaps General Taylor and I can give you a few words of comment of what we found during our recent visit to Saigon and then respond to a few of your questions.

There is no question in our minds but what the Communists have stepped up their rate of attack in recent weeks in South Vietnam primarily against the rural population and primarily in the form of tactics designed to harass the rural population, to instill terror in them, to erode away their confidence in the ability of their Government to provide for their physical security.

These attacks have taken the forms of kidnappings, ambushes, murders—terrors of every form. They have been directed particularly against the leaders of the provincial governments, the district governments, the villages. They have kidnaped district chiefs, for example, and literally cut off their heads. They have ambushed the officials of the districts and the provinces. One of these ambushes took place while we were there.

The rate of kidnappings, murders, ambushes has increased very substantially in recent weeks. It is absolutely essential, therefore that the Government of Vietnam increase its activity to counter these attacks and that we consider ways and means through increased economic assistance, increased military support to assist the Government of Vietnam in that activity.

#### INCREASE IN FORCES SOUGHT

We have agreed with them that their regular military forces and their paramilitary forces must be increased in size very substantially and very soon. We have agreed that the number of aircraft in the Vietnamese Air Force must be increased.

While General Taylor and I were there in early March, we agreed we should have added 75 A-1 type aircraft to the Vietnamese Air Force. Yesterday, we considered it desirable to increase by 100 percent the number of Vietnamese pilots and to further strengthen that air force, and this will be done very promptly.

Other steps that will add to the ability to effectively protect the rural population have also been agreed upon and will be undertaken soon.

Perhaps I can respond to some of your questions and General Taylor as well.

#### EXTENSION OF WAR DISCUSSED

Question. Mr. Secretary, you say it is absolutely essential for the Government to counter these attacks. Does this or does this not argue that maybe the war ought to be carried across into North Vietnam from which the logistics and other suppliers come?

Answer. I think you would agree that to counter effective terror tactics of the type that are being directed against the rural population requires action on the soil of South Vietnam, and a proper response to

these terror tactics directed against that rural population would not be reliance upon military pressure upon the north. This is not to exclude that as a possible action. Whether or not such action is undertaken however, it can only be considered a supplement to and not a substitute for effective action on the soil of South Vietnam.

Question. Mr. Secretary, does this stepup in the war and the need for putting more men and planes in make obsolete the Kennedy plan for U.S. withdrawal by 1965?

Answer. I think we should recognize that our primary function is one of training, support, and logistical assistance. As the U.S. units in South Vietnam complete their training functions, I am sure you would all agree that they should be withdrawn. It may be necessary in order to expand the training, particularly for the increases in the regular and paramilitary forces of South Vietnam, to send over certain additional U.S. personnel. If that becomes necessary, they will be sent for that purpose.

Question. Mr. Secretary, I understand you have been directed to come before the House Armed Service Committee to retell your findings on the Vietnamese war. When will you go?

Answer. I have been told this morning, although I have not actually checked it with the committee yet, that they would like me to come before them next Tuesday, and if that be the case, I will be delighted to do so.

Question. Mr. Secretary, there are reports that the South Vietnamese Government is in particular trouble because of many of the leaders in the area just south of Saigon having been shifted around by the new Government so extensively that they just can't seem to get themselves organized. Is this one of the things you have looked into and is it true?

Answer. There have been frequent changes of government and government leaders. Since the first of November, in 35 of the 41 Provinces, there have been changes in Province chiefs. In nine of the Provinces, I believe the Province chiefs have been changed three times since the first of November. This was to be expected as an aftermath of the two changes in the national government. The village, the district, and the Provincial levels however, are seeing a stabilization of personnel at the present time, and I have every reason to believe that the number of changes will decline substantially in the future.

#### CHANGES IN MILITARY CHIEFS

Question. Have there been similar changes with military leaders?

Answer. There have been changes in military leaders as well since the first of November, but the frequency of such changes is declining dramatically.

Question. Mr. Secretary, did the President approve any specific plan of step-up this morning?

Answer. The President is considering the suggestions made for increased economic and military support.

Question. When do you anticipate a decision?

Answer. We expect to meet again tomorrow and the next day on these questions.

Question. What would be your estimate, sir, of how many more U.S. training personnel would be needed in Vietnam?

Answer. I think, on balance, the number is not likely to increase substantially. There will be both increases and decreases associated with the strengthening of the Vietnamese forces.

Question. Is there any possibility that our returning personnel will be augmented by people from Taiwan and similar other allies?

Answer. I think it is highly desirable that other flags be represented particularly in such areas, for example, as the supply of medical personnel and the supply of train-

11358

## CONGRESSIONAL RECORD — SENATE

May 22

ing and advisory personnel. As you know, both Secretary Rusk and I have approached other governments requesting such assistance.

Question. Have there been any acceptances?

Answer. I have received a very sympathetic response to the requests I have made. I have not had a chance to discuss with Secretary Rusk the discussions he has held during the past week.

Question. Can you name some of the countries?

Answer. I think it would be better to wait until they themselves are ready to announce official action in response to our request.

Question. Mr. Secretary, how do you feel the war has been reported out there?

Answer. I think all of you are perhaps better qualified to discuss that than I. On balance, to answer your question specifically, I think the reporting has been very good. Recognizing the fact that in a very real sense we have 41 different wars, and it is extremely difficult for any one man, any one reporter to intimately be acquainted with all of the variations in the military actions and guerrilla actions that are occurring particularly when you recognize the character of those actions.

As I stressed a moment ago, these are terror tactics, terror operations directed against individuals, and you can well imagine the difficulty of reporting that kind of war in 41 different provinces.

## COMPARISON SOUGHT

Question. Mr. Secretary, would you compare the conduct of the war now with your last visit as only making progress?

Answer. I think we are, and I remain personally convinced—and I would like to have General Taylor who is far better qualified than I to speak to this—that persistent execution of the political-military plans of General Khanh's government, plans that they have developed and that we have concurred in and have agreed to provide assistance, will lead to successful conclusion war. But I want to emphasize it is not going to come soon. This is not that kind of war. This is a war for the confidence of the people and the security of those people, and that kind of war is a long, hard war.

Question. What measures do you recommend?

Answer. Let me suggest that General Taylor comment on this same question.

General TAYLOR. I could add very little more except to say that General Khanh impresses me as a very energetic military leader. He thoroughly comprehends this complicated war—that it is not purely military by any manner of means but involves political and economic facets as well.

I think [that] it is very encouraging and perhaps surprising to find in a young man who has so quickly pulled together the many facets of this problem. However, as the Secretary has said, this is not something that can be done overnight. The programs being executed are involved, they are complicated, and I think they would test any government.

Question. General, how do you find the young officers in the South Vietnamese military forces?

Answer. Somewhat like the young officers in Korea, whom I know much better. They try hard. They are generally courageous. They have very little professional background, however. They make the mistakes of relatively untrained officers. However, the officer corps is growing and maturing every month and with time, of course, will be constantly better and more effective.

Question. General, do we know why the Communists have changed their tactics recently?

Answer. I don't think they have changed it in quantity so much as they have in quality. They have taken very heavy losses, as you know, in recent weeks. This cannot be

pleasant for them especially when one considers that a wounded man for them is very frequently a fatality. Hence, it is quite understandable that they have shifted now, making the populace more the target rather than the formed bodies of troops.

## THE ADVERSARY IN VIETNAM

(By Bernard B. Fall)

As the analysis published in the April issue of War/Peace Report clearly showed, there is some room for debate as to who exactly the adversary is in what many already call the "Second Indochina War." Some see the National Liberation Front of South Vietnam (NLF) as a genuinely local insurrection created out of despair in the face of the late Diem regime's absurd policies. Others (and this is the official view) consider the NLF solely an extension, for use in South Vietnam, of the North Vietnamese regime or even of Peiping. Each side adduces its own evidence to prove its case: on one hand it is contended that even the NLF "regulars" are indeed "southerners" (which is true) and on the other, one points to the captured Communist bloc weapons to substantiate outside Communist support (also true). Obviously, the actual facts lie somewhere in between.

In my view, and on the basis of my own experience in underground warfare in Nazi-occupied France and later in Indochina, it is possible to lead an insurrection politically and militarily even under guerrilla conditions. That such a fairly centralized direction exists in the south, and has existed at least since 1957, if not earlier, can be fully substantiated. When the killing of village officials began on a large scale in 1957 (an officially admitted total of 472 were killed that year), significant clusterings of the killings occurred in three Vietnamese provinces south of the Mekong River. That obviously did not happen simply because the village officials were more oppressive there than anywhere else, but simply because the guerrilla command had decided to clear those areas for the purpose of making them the permanent resistance bases they have since become. And the deliberate shift last year of Vietcong operations from the Vietnamese highlands to the Mekong Delta was another magnificently executed military tactic, with regular units slipping through the network of U.S.-advised South Vietnamese units with almost impunity.

Unbelievably, that deliberate Vietcong move into the Mekong Delta was officially explained away by the United States as part of "our strategy to sweep them steadily southward and finally corner them"; i.e., sweep the Vietcong out of an area where recruits and food were hard to get and into an area where food and recruits are plentiful and where all of Vietnam's most sensitive targets lay, including Saigon, with its industries, airports and Government installations.

True, there has been a great deal of exaggerated propaganda in Washington and elsewhere about Chinese and Russian help to the insurgents in view of the presence in South Vietnam of some Soviet- or Chinese-made antitank weapons and automatic rifles. As Arthur Dommen correctly assumes, the bulk of this ordnance comes from Laos. And the fact, for example, that some excellent Madsen submachineguns—produced in Denmark, a NATO ally—have been found among the Vietcong does not ipso facto prove that Denmark backs the Communists in Vietnam; it simply means that arms merchants have no national loyalties. Soviet-made guns (captured by the Israelis in Egypt and resold by them on the world's arms market) can be bought within a mile of the Pentagon on the Alexandria, Va., docks—and quite legally, too. The unfortunate fact is that nine-tenths of all modern weapons in Vietcong hands are standard American weapons captured from the South Vietnamese military and paramilitary forces. Officially, the loss of over 12,000

such weapons in 1963 is acknowledged. What the South Vietnamese may have lost but not reported to their own higher commanders or the U.S. military advisory command, may run much higher. It is obviously far better and easier for the Vietcong to capture matching ammunition for their American weapons from "our" Vietnamese than to get Soviet or Chinese ammunition from Hanoi.

But aid in the form of political and military cadres does come from the North, as well as some fully constituted regular units composed of southern Vietnamese and mountain tribal soldiers. The presence in the South of the 120th, 126th, and 803d Vietcong regiments has been well known for the past 2 years and, according to the New York Times of April 13, 1964, the 108th Regiment has recently been identified in central Vietnam. If that is true, then the Vietcong has reconstituted in central Vietnam all the regular regiments which I knew there during the French-Indochinese war. The 803d and the 108th were particularly dreaded for their junglegoing capability; in June 1954, they mercilessly destroyed a French regimental combat team equipped with tanks and artillery whose core units had successfully fought the Chinese and North Koreans while with the U.N. forces in Korea. Those regiments left South Vietnam in 1954 for the North. Their presence now inside South Vietnam certainly constitutes what the International Control Commission for the maintenance of the 1954 ceasefire provisions has called (with the vote of its Indian and Canadian members overruling the objections of its Polish member) "evidence that armed and unarmed personnel, arms, munitions and other supplies have been sent from the zone in the North to the zone in the South with the object of supporting, organizing and carrying out hostile activities."

## NO LEGAL REDRESS

It is true, as my compatriot Philippe Devillers said in his article written in 1961 (i.e., long before the NLF developed to its present importance), that many simple farmers and even urban politicians and intellectuals chose to fight with the Vietcong rather than face the certitude of an indefinite stay in one of Diem's infamous concentration camps. That will always be the case when men with real grievances are put into a position where no legal redress is offered them. The same situation occurred in 1946 when the French, still hell-bent upon rebuilding their colonial empire, offered no honorable way out to the nationalist Vietnamese opposition. The most active opposition members joined the Vietminh in its armed struggle against the French—not for the purpose of making Vietnam Communist but to make it free.

This history does not mean, however, that the Vietminh was not Communist-controlled nor that it did not end by creating a wholly Communist-dominated state in the zone of Vietnam under its control. The same error I fear, is being made in evaluating the NLF. The fact that its program does not at present contain Communist objectives offers little guarantee as to its future intentions. I def anyone to find a single Communist infection in Ho Chi Minh's 1946 Vietminh constitution. It was a document designed to win maximum support among the broad population, and it did that most effectively. And the reason offered quite openly by North Vietnam in 1960 for the abrogation of the 1946 document and its replacement by a tough, Communist-line constitution was that the old constitution "no longer was in accordance with Socialist realities." That in all likelihood what would happen to the present NLF program the day that Frois comes to power in Saigon.

This does not mean, however, that I agree with those who believe that the only way out of the present Vietnamese dilemma is



1964

## CONGRESSIONAL RECORD — SENATE

11359

20-year counter guerrilla operation. Here again, the historical precedents show various possibilities:

1. Communist guerrillas do not always win and the Soviet bloc does not always support them to the bitter end. The Communists abandoned their guerrillas in Greece, Azerbaijan, Malaya, and the Philippines—and in South Korea, where there was for a long time a serious guerrilla problem. Milovan Djilas' "Conversations With Stalin" has a magnificent passage on Stalin's cold-blooded decision to let the Greek Communist ELAS partisans die for nothing because he did not want to get war-exhausted Russia entangled in a conflict with the United States.

2. On the other hand, to negotiate with a Communist opponent when one's original war aims are no longer attainable does not automatically mean that one has to lose his shirt; or that native forces being supported will therefore be totally demoralized. In Korea some of the toughest fighting went on while American and Communist negotiators sat at Panmunjom for 2 years. The Republic of Korea forces were not demoralized by the negotiations. My own experience has been that one fights harder if a reasonable end is in sight and one knows his side needs a victory to strengthen its negotiating position.

To be sure, the Laotian "sellout" of 1962 is usually dragged in at this point of the argument to prove how badly the West usually fares in such a situation. It was the late Gen. Walter Bedell Smith, a soldier-diplomat of the first rank, who said during the 1964 Geneva conference that it was "difficult to regain at the conference table what has already been lost on the battlefield." In Laos, thanks to a set of incredible illusions (now amply matched in Vietnam), it was believed that the Laotian rightwing forces could be made to fight. The hard fact is that had the military war in Laos continued for 1 more month, all of Laos would have been Communist. But as a result of the negotiations a wobbly neutralist government has, for the past 2 years, kept the Communist Pathet Lao away from the sensitive Mekong Valley which borders on Thailand. Considering the panic that gripped Bangkok in 1962 when it was erroneously announced that Communist forces had broken through to the Mekong near Ban Houei Sai, that surely is an achievement. A Communist advance there could never have been halted without at least very sizable American ground forces being committed at fantastic cost.

3. The North Vietnamese stand to lose at least as much (if not more) than the South Vietnamese if the present second Indochina war "escalates." North Vietnam has not had a shot fired at it in anger in 10 years. One stands an awful lot of dictatorship (look at Franco's Spain) just for the sake of not being at war. A single American saturation raid on North Vietnam may do away with 10 years of back-breaking "Socialist construction" as well as with that feeling of peace. It would not (contrary to what some great oversimplifiers believe) bring an end to the insurgency in South Vietnam; on the contrary, with the gloves being off, North Vietnam would then throw her fearsome (and now unemployed) regular divisions into the fight—and who can say what Red China might throw in. That would "Koreanize"—or shall we say: "MacArthurize?"—the South Vietnamese conflict with all the unforeseeable international consequences (in 1950, the nuclear age was in its infancy and the U.N. still white dominated) that might follow.

## SOLE LOGICAL EXIT

It is my feeling that some sort of a mutually acceptable accommodation will eventually ensue from a more realistic appreciation of what the three above-cited factors really mean. It is understandable that Washington does not wish to negotiate

with the NLF or Hanoi (one might well wonder whether this might not be more embarrassing in a tete-a-tete than at a multipower conference which is now being heatedly rejected) with as badly a deteriorated military situation as exists now—and just before a presidential election. And it is likewise obvious that General Khanh's regime in Saigon, whose rise to power was favored precisely because he violently rejects any thought of negotiation, would view such contacts as a sellout. There is, after all, in neighboring Laos the example of the rightist General Phoumi, who was first encouraged to overthrow neutralist Prince Souvanna Phouma, only to be pressured 1 year later into accepting (and, in fact, supporting) the same souvanna Phouma as premier of a troika regime. Khanh would understandably resent being placed in the same kind of predicament.

But signs of a military stalemate—harder to perceive in Vietnam where there is no battlefield to draw on maps, as there was in Korea—are nevertheless apparent. And the sole logical exit from such a situation is sooner or later a confrontation at the conference table.

[From the National Guardian, May 21, 1964]  
BURETTE IN VIETNAM: U.S. TAXPAYERS ARM GUERRILLAS

(By Wilfred G. Burchett)

FROM A LIBERATION FRONT BASE IN SOUTH VIETNAM.—If a delegation of U.S. taxpayers could have made the sort of journey I made they would have been scandalized. On one occasion, along a road in Tay Ninh Province which had been built with U.S. equipment in 1961 and had now been reduced by the guerrillas to a serpentine track just wide enough for bicycles and foot soldiers, we overtook a long line of National Liberation Front troops who were shifting their base. From behind the first impression was of an endless undulating line of white triangles, but as we grew closer, the white triangles turned out to be flour-bag haversacks, each bearing the clasped hands of friendship above the U.S. flag and the printed words: "Gift of the American people."

As seen from behind, the typical Vietcong or Gial Phong Quan (liberation army) soldier, as they call themselves, is an interesting study. Attached to his webbing belt, from left to right, is first a tiny ingenious bottle lamp. It is made from French perfume bottles, with the top bored through to take a metal-encased wick which pops out automatically when the brass cap is removed. Cap and wick casing are made from U.S. cartridges. It is this tiny lamp that lights the way along jungle paths for night attacks. Next to the lamp hangs a bunch of hand grenades, made in NLF jungle arsenals; one I visited was turning out 5,000 grenades a month, and there are many such.

Alongside the grenades is another "secret weapon" of the guerrillas, the nylon hammock which is standard equipment. Usually made from parachute nylon, it folds up into the space of a handkerchief; slung by parachute cords between trees, it is the perfect guerrilla bed. I slept in nothing else for almost 5 months and—with a mosquito net slung above and tucked in all around—I found it the most admirable sleeping equipment for jungle travel. It can be slung and unslung in a matter of seconds, just the time necessary to pull the cords at each end—a vital factor in guerrilla conditions which demand shifting camp at a moment's notice.

Alongside the hammock is a water container, mostly with a big "U.S." on the cloth container, but some hammered out from U.S. plane remnants and covered with NLF containers made in a jungle uniform factory. Finally, there is what looks like a sizable round bomb, wrapped in parachute cloth—in fact, the day's ration of 750 grams of cooked

rice. (During the war against the French, the standard for Vietnam troops was 250 grams daily, and I noticed how robust were the front soldiers of 1964 compared with the lean troops I had seen 10 years earlier at the time of Dienbienphu).

The standard arm is the U.S. carbine, with a fair sprinkling of the much appreciated Garands. Of course, the front soldier, like the Vietnam soldier before him, marches on the famous Ho Chi Minh sandals. The only difference is that Michelin has been replaced by Goodyear. The soles are from auto tires, the four thongs which keep them in place being strips of inner tubes. They are by far the most comfortable form of footwear ever devised for heat and jungle conditions. With such equipment, a front battalion can march 15 miles after dark to attack and destroy a post, and march back to its base with the booty before sunup. (In tropical South Vietnam, there are at least 12 hours of darkness every day of the year).

In Cu Chi district, which starts at about 7 miles north of Saigon, I was shown a battered old U.S. carbine, introduced to me as "our mother carbine." After a large seizure of arms at Tua Hai near Tay Ninh, in February 1960, Cu Chi and the five other districts of Gia Dinh, the province in which Saigon is situated, each received one carbine. "Each carbine has had many litters of children since," a local front leader explained with a grin. "With that one carbine and lots of dummy wooden guns and explosions produced from carbide for bicycle lamps, we very soon attacked our first post, and replaced our dummy guns with real ones."

In many other places I visited, I was told that their first weapons had come from the Tua Hai booty. Later, I tracked down Quyet Thang, the commander of the Tua Hai action a rawboned peasant who had been a guerrilla leader in the anti-French war. As this was the first large-scale military act in the Nambo (Cochin-China), I was interested in the details. The Liberation Front had not officially been set up in February 1960, when the Tua Hai action took place, but Quyet Thang explained that local committees existed and that "the word had gone around" to set up self-defense units to resist the armed raids of the Diemist troops.

"Some of us who had taken part in the anti-French war got together secretly and we agreed that we had to start armed resistance—but first we must have arms. The Diemists just then were conducting a sweep through Tay Ninh province with two divisions. Our plan was to set up a battalion of guerrillas and then attack the Tua Hai fortress, where we knew there was a large stock of arms."

Over the next few months they combed the whole province for all weapons, no matter how old, that existed. This was an area to which the armed sects, Hoa Hoa, Cao Dai, and Binh Xuyen, had withdrawn in 1955, after having been crushed by Diem troops. Altogether Quyet Thang was able to muster 260 men, a few former resistance fighters like himself, but the majority youngsters who had fled to the forest to escape Diem's conscription gangs. "We also had 170 weapons, an ill-assorted lot, many of them archaic, and a strictly limited number of cartridges," Quyet Thang said. "Through some former resistance fighters who had been conscripted and were garrisoned at Tua Hai, we managed to smuggle scouts inside and examine the whole layout."

Tua Hai was—and still is—a formidable, square fortress built by the French. At the time Quyet Thang's men attacked, it was the garrison headquarters for the 32d Regiment of Diem's 21st Division, situated only about 2 miles north of Tay Ninh. "Our aim was to obtain 300 weapons and explain to the troops why we were fighting. We had

May 22

11360

## CONGRESSIONAL RECORD — SENATE

prepared some leaflets signed by the Peoples' Self-Defense Forces.

Scouts managed to infiltrate in the small hours of the morning and placed mines all around the main barracks. The explosion of the mines was the signal for a general assault: "Within seconds the barracks were ablaze, panic-stricken troops were racing for shelter, and our men had poured over the ramparts to wipe out the command post and seize the arms depots," Quyet Thang said. When I asked where the mines came from, he said some mine-making experts from the anti-French war had fashioned them from TNT from unexploded U.S. bombs and shells. Timed for the moment of the assault was the arrival of 500 porters to carry off the booty.

"In the arms depot there were thousands of weapons, the regimental stock and lots of spares. We pilled them up and our fighters threw away their old weapons, grabbed the new ones and rushed off to continue the fight. The enemy rushed out of the fortress, then reformed and tried to assault us, but by then all the watchtowers were in our hands and their machineguns also. After almost 2 hours of fighting it was all over, and more than 800 rifles, and scores of pistols and machineguns were in our hands. We carried off about 1,000 weapons in all, and could have had many more had we been able to transport them. There were lots of 578 mm. recoil-less cannon. I didn't know what they were, but we took five along anyway. Later they were very useful against block-houses and amphibious tanks."

The guerrillas, outnumbered by about 10 to 1, lost 10 dead and 12 wounded in the action. About 300 weapons were kept for the battalion, and the others were distributed to virtually every district in Cochín-China, and became the mother weapons which quickly started the process of rapid reproduction.

Historians may later set the Tua Hai action as the beginning of the war in South Vietnam, though this would not be accurate. Nonetheless, it was the first large-scale action by the people's self-defense forces that were later organized under a unified command into today's liberation army. The Tua Hai action set the pattern for the innumerable attacks on posts which still today remain the principal suppliers of arms and ammunition.

"As a matter of fact," concluded Quyet Thang with a grin, "we were a bit worried as to what our people would say after the attack. The line at that time was to use arms only in self-defense. Only after the front was officially formed 10 months later was this changed. But we figured that as most places had no arms at all even for self-defense, we had to get arms. So we decided to call this a self-defense action."

If the American taxpayers' delegation would be scandalized to see all these fine arms in the hands of the guerrillas, they would have apoplexy if they were to visit the jungle arms factories where carbines, light automatics, imitation Colt revolvers, mountains of hand grenades, and an incredible variety of special-purpose mines are being made—almost exclusively with U.S. equipment. Here are U.S. lathes, drills, spot welders, everything from the generators that power them down to delicate balances for measuring detonator charges—all U.S. made and most of them with the clasped hands of friendship and the sign: "Gift of the American people." This legend was also stamped on the many different bicycles I rode and on the outboard motors which powered the many sampans I traveled in.

[From the Washington Post, May 20, 1964]

## THE NIGHT THIEF GIVES WARNING

(By Joseph Alsop)

SAIGON.—Like a thief in the night, with muffled foot slipping from shadow to deceptive shadow, a great national disaster is

creeping up on the United States—and on this poor country, too.

The disaster is a final Communist triumph in South Vietnam. What is happening in Laos is peripheral, for the future of Laos will eventually be settled by the outcome here in Vietnam.

What is happening in Laos is a clear warning that the Communist timetable is much shorter than the Washington policymakers seem to suppose.

Even if the Communist advance proceeds no further and an immediate crisis show-down is thereby avoided, the aims—and gains—of the enemy are obvious. To begin with, they have gained elbow room in Laos, the corridor country, which will be very useful in a future crisis of the war in Vietnam.

They have gained in Vietnam, too, since unpunished Communist successes in Laos naturally cause Vietnamese doubts about America's strength of will. And finally, the Communists policymakers in Hanoi must also be concluding that they have made an important test of this American strength of will, with delightfully encouraging results.

Hence the Laotian warning is dangerous to ignore. Yet it is far more dangerous to ignore or misread what is happening here in South Vietnam. In a nutshell, the war effort here is approaching a breaking point.

There are three solid reasons for believing that the breaking point may not be far off—unless the United States begins to take preventive action. The first reason is simply the growth of war weariness, the loss of patience and endurance. These have been the most striking consequences of the successive coups d'état, beginning with the fall of President Ngo Dinh Diem.

The psychological climate is therefore unhealthy, as the desertion rates in the army and civil guard units clearly attest. The hope of creating a healthier psychological climate is all too slim, in turn, because of the unhealthy military situation.

President Johnson has asked for more aid for South Vietnam, and he has told Congress that the new, more vigorous leadership of Gen. Nguyen Khanh is a very hopeful factor. He is dead right on both points. But he might better have told Congress that even the efforts of General Khanh, vigorously aided by the United States, are most unlikely to turn the tide here. By doing more of the usual things, we can at best hold on.

The enemy is attacking in heavier and heavier strength, often with disturbing success. To turn the tide, General Khanh needs to find another 150,000 men, to fill up his existing units and to create the additional forces planned with Secretary of Defense Robert McNamara. Without these added men, Khanh has no margin of advantage. But as the alarming desertion rate too plainly suggests, recruiting this many more soldiers will be a slow business if not an impossible task.

Meanwhile, in some Provinces in the delta, and in Quang Nai in the center of the country, the South Vietnamese Regular Army has already lost the upper hand in the contest with the Communist forces. In sum, the situation already exists that General Giap classically seeks to create.

The defending forces are at stretch, and they have no large, easily mobilizable reserves. Thus, South Vietnam resembles a bowl of water, or rather a bowl of poison, which has just reached the brimming-over point. Put more into the bowl and there will be the devil of a mess.

Finally, the third reason for intense alarm is General Giap's obvious preparation to put a lot more into the bowl. This is the real meaning of the battalions of North Vietnamese Communist regulars which are now deployed just across the Vietnamese border, in Laos.

To this must be added a grim probability. The probability is that the U.S. military leadership out here is wrong in its belief that our continuing superiority in firepower and mobility will overcome any crisis the enemy can create.

Firepower and mobility cannot be exploited to win a battle begun by surprise at dusk, and over and finished before sunrise. Yet a night's battle, ending in capture or destruction by the Communists of no more than a thousand or two thousand Vietnamese Regulars, might well cause the kind of paroxysm of alarm and defeatism that would bring this war to an end.

This is the crucial point. The position in Vietnam today—is above all—fragile. To shatter this fragile position for good and all, the enemy need not plan anything as ambitious as the fight at Dienbienphu—a small battle but one that went on for a long time.

In one night, almost before we know it, we may be overtaken by the disaster that is creeping up on us.

[From the Washington Post, May 21, 1964]  
ADDITIONAL \$125 MILLION VIET AID VOTED BY  
HOUSE GROUP

(By John G. Norris)

The administration won strong congressional support for its program of stepped-up aid for South Vietnam yesterday, as the House Foreign Affairs Committee voted an additional \$125 million for that southeast Asian country.

Both the Foreign Affairs Committee, with its quick and unanimous approval of the added assistance, and the House Armed Services Committee, through its chairman, Representative CARL VINSON, Democrat, of Georgia, expressed their confidence in the administration's plans.

"I am satisfied with what the (Defense) Department is doing and with what this Government is doing," said Vinson, after receiving a 2-hour report from Defense Secretary Robert S. McNamara. "I am behind the position of the Secretary in the prosecution of the war."

Members of both groups are gloomy over the deteriorating situation in southeast Asia, but few see any alternative to continued full support of South Vietnamese forces fighting the Communist guerrillas.

## FIGURES RELEASED

As the House committee approved the additional \$55 million in military aid and \$70 million in economic aid for South Vietnam, the Defense Department declassified heretofore secret figures showing the scope of military assistance to that country.

Now budgeted for Vietnamese military aid in the fiscal year beginning July 1 is \$205.8 million, compared to \$209.8 million this year and \$211.5 million in fiscal year 1963.

Including economic aid, but not the cost of maintaining 15,500 American troops there, the total assistance now contemplated for South Vietnam during the coming year is \$477.8 million, compared to \$432.5 million this year and \$408.7 million in 1963.

This makes it evident that, until the recent decision to ask for an additional \$125 million, President Johnson's economy budget actually called for a cutback to \$352.8 million in aid for South Vietnam in the coming year.

The House Armed Services Committee's closed session was called to inquire into recent press criticism that obsolescent planes employed in South Vietnam had caused the death of two U.S. fliers. In refuting such charges, McNamara told the committee that American and Vietnamese forces "are receiving the best equipment available for the unique task at hand."

## McNAMARA TO RETURN

He told newsmen afterward that the equipment assigned to Vietnam was chosen with regard to, first, the "enemy threat"; second



1964

## CONGRESSIONAL RECORD — SENATE

11361

"the capability of the Vietnamese to operate it"; and third, "the effectiveness of (the equipment) in relation to the operational requirements."

High-performance jet warplanes would not meet these requirements of the guerrilla war, officials noted.

Most of yesterday's session of the House Armed Services Committee dealt with the broader aspects of the Vietnamese war, and members did not get down to questions about the obsolescent T-28 and B-26 planes. McNamara will return Monday, with Air Force Secretary Eugene M. Zuckert, to go into this aspect of the war.

Under questioning by newsmen, McNamara commented on reports that Americans are flying most of the air missions there. He said "scores" of Vietnamese have been trained as pilots; that they flew 1,300 sorties in April, and that the amount of their combat flying has increased 800 percent since January 1962.

In his prepared statement to the committee, McNamara said "the road ahead will be long and hard" but "it is not in our tradition to back off when the going gets tough."

Mentioning Kosciuszko, Von Steuben, and Pulaski, McNamara said: "The mission of our men in South Vietnam is the same as the mission of those Europeans who came to this country to train and assist us in our fight for liberty."

[From the New York Times, May 8, 1964]  
KHANH IN FAVOR OF BROADER HELP: BUT SAIGON PREMIER ASSERTS U.S. AID IS SUFFICIENT NOW

SAIGON, SOUTH VIETNAM, May 7.—Premier Nguyen Khanh said today that U.S. aid was sufficient but he would welcome help of any kind from other nations in the war against the Communist guerrillas.

The Premier was commenting on efforts by the Johnson administration to get assistance from members of the North Atlantic Treaty Organization and the Southeast Asia Treaty Organization.

President Johnson said at a news conference in Washington yesterday:

"I think a good many countries are giving serious consideration to making contributions in that area to keep communism from enveloping that part of the world. And we welcome that help, and we expect to receive it."

Premier Khanh commented: "We are involved in a war with many problems, military, social, and economic, and we would welcome any help we could have from the free nations."

## FINDS PRESENT AID ADEQUATE

But he said American aid—which involves 16,000 men and money at the rate of \$500 million a year—was adequate at this stage and he had no plans to ask Defense Secretary Robert S. McNamara for more when he visits Saigon again next week.

The Premier described the impending visit—Mr. McNamara's fifth to Vietnam and second in 2 months—as routine.

"We have no special problems to solve," he said. "We simply want to push our efforts in the war against the Vietcong."

Premier Khanh repeated today, the 10th anniversary of the fall of Dienbienphu, the symbol of France's loss of Indochina, that he opposed the defensive concept of warfare.

"That sort of philosophy is very bad and would eventually lead to defeat," he said.

## U.S. AIDES SOMBER

Elsewhere, U.S. officials took a somber view of two aspects of the war—the "clear and hold" program that impressed Mr. McNamara on his visit in March and Communist operations across the Cambodian-Vietnamese frontier.

A high American source said the pacification program, under which troops move out from a secure base to clear and then hold an

adjoining district, is moving more slowly than U.S. authorities would like. But there is hope for an improvement soon, he said.

U.S. advisers on the Mekong River at Sadek, the Vietnamese 9th Division's headquarters, said Vietcong units had started using Cambodia openly as a sanctuary. They reported 15 Communist incidents and attacks on Vietnamese frontier posts in 1 day.

[From the New York Times, May 22, 1964]  
NEW U.S. IDEAS ON ASIA—TENTATIVE STEP TOWARD INVOLVING U.N. IN AREA IS BREAK IN 10-YEAR PATTERN

(By Max Frankel)

WASHINGTON, May 21.—In its move at the United Nations today, the United States injected several new features into its policy for southeast Asia. In effect, officials acknowledged, they were taking a small and tentative step toward involving the United Nations in that threatened region, thus breaking a 10-year-old pattern of Washington thinking about the problem. For the first time, the United States proposed an international peacekeeping operation on the border between Cambodia and South Vietnam.

The response of other nations will determine whether Washington would also contemplate a more extensive form of United Nations observation of South Vietnam's borders with Laos and North Vietnam.

For the first time, also, the United States indicated that it was prepared at any time at least to debate the entire southeast Asia situation, including its own actions, in the world organization. Hitherto, Washington has feared the interference of other nations, mistrusted the United Nations and accounted only to the 14 nations that signed the Geneva agreement on former French Indochina in 1954.

And for the first time, the United States denounced as basically unworkable the system of having three-nation commissions supervise the Indochina accords. Though Washington is still trying to get action from the commissions of Canadian, Indian, and Polish officials, it virtually wrote off the three-nation format because decisions under it could be reached only by unanimous vote.

Officials pointed out that recourse to the United Nations, at least at this stage, certainly did not imply reliance upon the world organization. That is why the statement by the U.S. representative at the United Nations, Adlai E. Stevenson, to the Security Council was coupled with a pledge that the United States would continue to do what it felt it must do to support non-Communist regimes in southeast Asia.

Separate demonstrations of force, it is felt, must accompany diplomatic efforts to emphasize that point. Today's announcement of American reconnaissance flights over the Plaines des Jarres in Laos was only the first of several direct warnings of U.S. action, officials said.

One difficulty of bringing Asian problems into the United Nations has been the feeling here that such action would only dramatize the absence of Communist China from the world organization. Washington dealt with Peiping, among others, at the 1962 Geneva Conference on Laos, without facing the embarrassing membership question.

## FACING MOSCOW'S CHALLENGE

Another difficulty has been the fear that an appeal to the United Nations would be interpreted in South Vietnam and in United States political discussions as defeatist. But because the current debate was initiated by the Soviet Union and at a time when Washington was vowing resistance, officials seized the opportunity offered by Moscow's challenge.

Thus far, the U.S. offer of support for United Nations actions extends only to the problem of securing Cambodia's frontier

with South Vietnam. Washington decided for tactical reasons to let the Secretary General, U Thant, and other members take the lead in evolving a specific proposal.

Such international action, it is thought, would not only help the Cambodians, but also frustrate in some measure the movements of Communist guerrillas. Some officials are already thinking beyond this proposal to a time when the United Nations might receive or even gather reconnaissance information about violations of South Vietnam's other frontiers.

The significant step, officials explained, despite Mr. Stevenson's cautious language, lay in the breaking of a 10-year policy that was developed before the United Nations learned to function as a peacekeeping agency notably in the Congo, the Middle East and most recently in Cyprus.

[From the New York Times, May 22, 1964]

## THE UNDERLYING PRINCIPLE IN VIETNAM

(By James Reston)

WASHINGTON, May 21.—In the present crisis over Vietnam, it is not only the United States that is being tested, but the United Nations and the whole postwar system of keeping the peace.

No doubt Washington has made many mistakes in Vietnam over the last few years, but at least they were made in defense of honorable promises and in keeping with the basic principles of the United Nations Charter.

The United States did not agree at San Francisco in 1945 to oppose aggression only when it was easy or only close to home where its power was predominant, but to try to maintain order anywhere in the world.

This is the underlying principle in Vietnam, and the Charter of the U.N. is quite specific about it. It obliges all members to unite their strength to maintain international peace and security. It states in article 1 that the member states shall "take effective collective measures for the prevention and removal of threats to the peace and for suppression of acts of aggression. . . . And it insists that this be done with the minimum of force necessary."

## THE HARD REALITIES

This is precisely what the United States has been doing in southeast Asia. It has intervened to halt aggression, not to expand it, to help the South Vietnamese, not to replace them. It has been trying to take effective collective measures for the suppression of acts of aggression, and its measures would have been more effective if the allies had made them more collective.

On purely selfish national grounds, there was a good case to be made against any U.S. intervention in Vietnam. It was over 7,000 miles from our shores. It was rough country to defend against guerrilla action. It could not be sealed off from its arms source without attacking China. And that was not all.

The Communist troops in North Vietnam had helped defeat a French army of 400,000 and even now are regarded by many people in South Vietnam not as aggressors but as tough soldiers who helped liberate the peninsula from the white French colonialists. Nor was it ever clear that the people of South Vietnam were as determined to defend the principle of self-help as the United States was to defend the principle of collective security.

Accordingly, the adventure was always dubious militarily and is now hazardous in the extreme. The desertions from the South Vietnamese Army were admitted by Secretary of State Rusk on Capitol Hill today to be much greater than most observers here had believed, and fear of assassination is helping paralyze the war effort of the South Vietnamese Government.

Gen. Nguyen Khanh, the South Vietnamese Premier, lives in such fear for his life

11362

## CONGRESSIONAL RECORD — SENATE

May 22

that he sleeps one place one night and another the next. The Communist attacks have increased and their terroristic tactics have spread right into Saigon.

Nevertheless, none of this removes the need for defending the principle of collective action. That need is just as great now as it was when the U.N. Charter was written, or when the fighting broke out in Korea or the Congo. And even the French, who want to neutralize Vietnam but cannot tell us how it is to be done, concede that only by continued collective action in Vietnam—by which they mean American action—will the whole of southeast Asia be saved from conquest by the Communists.

## THE NEUTRALITY DANGER

Meanwhile, in the midst of all the present recriminations about the present mess in Vietnam and Laos, it may be useful to define what the immediate danger is. It is not that South Vietnam is about to be overrun by the Communists. It is not that the United States is preparing to attack North Vietnam or even order its own troops into the South Vietnamese units. It is that the South Vietnamese Government will be overthrown by a neutralist coup and that the United States will then be invited to leave.

In this fragile situation, even casual talk of ideal solutions or neutralization can be dangerous. There are no ideal solutions and even to reach the point of an honorable settlement means suppression of the Communist aggression. It means, above all, keeping in mind the collective security principle of the U.N., and urging other member nations to do the same.

[From the New York Times, May 22, 1964]

## THE INDOCHINA PROBLEM

In his speech at the United Nations yesterday, dramatized by his sudden recall from Europe, Adlai E. Stevenson emphasized American support for a U.N. role in helping end the friction on the ill-marked frontier between South Vietnam and Cambodia. He effectively refuted the baseless charges about American "aggression" made by Soviet Ambassador Fedorenko earlier this week when the latter relapsed into language reminiscent of the worst days of the cold war. And Ambassador Stevenson made clear that the United States will abandon neither the people of South Vietnam nor our military effort there.

The basic problem of American policy in what was once French Indochina also emerged clearly from the Stevenson speech. The United States would like to have a return to the political solutions agreed upon in the two Geneva conferences in 1964 and 1962. How is that to be accomplished, especially now when the Communist forces in South Vietnam and Laos alike believe they have the upper hand militarily?

As we suggested on this page yesterday, the United States may have to intensify its military support of the South Vietnamese before a peaceful settlement can be envisaged. But it would be futile to pursue the will-o'-the-wisp of a total victory in southeast Asia, short of embarking on an all-out war that under present circumstances the people of the United States would neither want nor accept. And if we cannot win a clear-cut military victory in this area, the power of the United States is such that the Communists must realize that they cannot either and that they, as well as we, will ultimately have to accept a political solution arrived at through negotiation.

President de Gaulle is presumably aiming for such a political solution in calling for an international conference on Laos, but events have already shown that the individual parts of Indochina cannot be considered in isolation. If there is to be serious negotiation, it must consider the total situation in all

four states: the two Vietnams, Laos and Cambodia. The objective must be restoration of peace on the basis of the Geneva accords of 1954.

The purpose of any intensified American military effort in Indochina—should that be necessary—must be to make clear to Hanoi, Peking, and Moscow that they are running unacceptable risks if they persist in their present policy. But at the same time we have the obligation—and are under the necessity—of holding forward the possibility of a political negotiation that could bring lasting peace to the area and make it possible eventually to get our troops out of this part of southeast Asia.

[From the New York Times, May 22, 1964]  
TEXT OF STEVENSON'S SPEECH AT U.N. AND  
EXCERPTS FROM FEDORENKO'S REPLY  
ADDRESS BY MR. STEVENSON

The facts about the incidents at issue are relatively simple and clear.

The Government of the Republic of Vietnam did in fact mistakenly cross the ill-marked frontier between their country and Cambodia in pursuit of armed terrorists on May 7 and May 8 and on earlier occasions.

That has been repeated and acknowledged here again today by the representative of Vietnam.

The Government of Vietnam has expressed its regrets of the tragic consequences. It has endeavored to initiate bilateral discussions with the Cambodian Government in order to remove the cause of these incidents.

But these efforts have not yet produced any useful results.

These incidents, Mr. President can only be assessed intelligently in the light of the surrounding facts; namely, the armed conspiracy which seeks to destroy the Government of Vietnam and the very society of Vietnam itself.

Mr. President, members of the Council, it is the people of the Republic of Vietnam who are the major victims of armed aggression.

## They suffer from terror

It is they who are fighting for their independence against violence directed from outside their borders. It is they who suffer day and night from the terror of the so-called Vietcong.

The prime targets of the Vietcong for kidnapping, for torture and for murder have been local officials, schoolteachers, medical workers, priests, agricultural specialists, and any others whose position, profession, or other talent qualified them for service to the people of Vietnam, plus of course, the relatives and children of citizens loyal to their Government.

The chosen military objectives of the Vietcong for gunfire, or arson or pillage, have been hospitals, schoolhouses, agricultural stations, and various improvement projects by which the Government of Vietnam for many years has been raising the living standards of the people.

The Government and the people of Vietnam have been struggling for survival—struggling for years—in a war which has been as wicked, as wanton and as dirty as any waged against an innocent and peaceful people in the whole cruel history of warfare.

It seems to me that there is something both grotesque and ironic in the fact that the victims of this incessant terror are the accused before this Council and are defending themselves in daylight, while terrorists perform their dark and dirty work by night throughout their land.

I cannot ignore the fact that at the meeting of this Council 2 days ago Ambassador Fedorenko, the distinguished representative of the Soviet Union, digressed at great length

from the subject before the Council to accuse the U.S. Government of organizing direct military action against the people of the Indochinese peninsula.

For years—too many years—we have heard these bold and unsupported accusations in the halls of the United Nations.

## Malicious tales denied

I had hoped that such malicious fairytales would be heard no more. But since another fanciful accusation against my country has been made by the Soviet representative, I am sure that the members of the Council will permit me to set him straight on my Government's policy with respect to southeast Asia.

First, the United States has no—and I repeat, no—national military objective anywhere in southeast Asia.

U.S. policy for southeast Asia is very simple: It is the restoration of peace so that the peoples of that area can go about their own independent business in whatever associations they may freely choose for themselves without interference from the outside.

I trust my words have been clear enough on this point.

Second, the U.S. Government is currently involved in the affairs of the Republic of Vietnam for one reason and one reason only—because the Republic of Vietnam requested the help of the United States and of other governments to defend itself against armed attack fomented, equipped, and directed from the outside.

## Earlier U.S. role recalled

This is not the first time that the U.S. Government has come to the aid of peoples prepared to fight for their freedom and their independence against armed aggression sponsored from outside their borders. Nor will it be the last time, unless aggressors learn once and for all that armed aggression does not pay, that it no longer works, that it can no longer be tolerated in the nuclear age.

The record of the past two decades makes it clear that a nation with the will for self-preservation can outlast and defeat overt or clandestine aggression even when that internal aggression is heavily supported from the outside and even after significant early successes by the aggressors.

I will remind the members of the Council that in 1947 after the aggressors had gained control of most of the country many people felt that the cause of independent Greece was hopelessly lost. But as long as the people of Greece were prepared to fight for the life of their own country, the United States was not prepared to stand by while Greece was overrun.

This principle, Mr. Chairman, does not change with the geographical setting. Aggression is aggression. Organized violence is organized violence. Only the scale and the scenery change. The point is the same in Vietnam today as it was in Greece in 1947 and in Korea in 1950.

The Indochinese Communist Party, the parent of the present Communist Party in North Vietnam, made it abundantly clear as early as 1951 that the aim of the Vietnamese Communist leadership is to take control of all of Indochina.

This goal has not changed. It is still clearly the objective of the Vietnamese Communist leadership in Hanoi. Hanoi seeks to accomplish this purpose in South Vietnam through subversive guerrilla warfare directed, controlled and supplied by North Vietnam.

The Communist leadership in Hanoi has sought to pretend that the insurgency in South Vietnam is a civil war. But Hanoi's hand shows very clearly. Public statements by the Communist Party in North Vietnam and its leaders have repeatedly demonstrated Hanoi's direction of the struggle in South Vietnam.



1964

## CONGRESSIONAL RECORD — SENATE

11363

*First Secretary quoted*

For example, De Du Dan, First Secretary of the party, stated on September 5, 1960, and I quote: "At present our party is facing a momentous task—to strive to complete the revolution throughout the country." He also said this: "The North is the common revolutionary base of the whole country." Three months after the Communist Party Congress in Hanoi, in September 1960, the so-called National Front for the Liberation of South Vietnam was set up pursuant to plans outlined publicly at that congress.

The International Control Commission in Vietnam, established by the Geneva accords of 1954, stated in a special report which it issued in June 1962, that there is sufficient evidence to show that North Vietnam has violated various articles of the Geneva accords by its introduction of armed personnel, arms, munitions, and other supplies from North Vietnam into South Vietnam with the object of supporting, organizing, and carrying out hostile activities against the Government and armed forces of South Vietnam.

*Supplies move from north*

Infiltration of military personnel and supplies from North Vietnam to South Vietnam has been carried out steadily over the past several years. The total number of military cadre sent into South Vietnam via infiltration routes runs into the thousands. Such infiltration is well documented on the basis of numerous defectors and prisoners taken by the armed forces of Vietnam.

Introduction of Communist weapons into South Vietnam has also grown steadily. An increasing amount of weapons and ammunition captured from the Vietcong has been proven to be of Chinese Communist manufacture or origin.

For example: In December 1963, a large cache of Vietcong equipment captured in one of the Mekong Delta provinces in South Vietnam included recoilless rifles, rocket launchers, carbines, and ammunition of Chinese Communist manufacture.

The United States cannot stand by while southeast Asia is overrun by armed aggressors. As long as the peoples of that area are determined to preserve their own independence and ask for our help in preserving it we will extend it. This, of course, is the meaning of President Johnson's request a few days ago for additional funds for more economic as well as military assistance for Vietnam.

*Continued support pledged*

And if anyone has the illusion, Mr. Chairman, that my Government will abandon the people of Vietnam, or that we shall weary of the burden of support that we are rendering these people, it will be only due to ignorance of the strength and the conviction of the American people.

We all know that southeast Asia has been the victim of almost incessant violence for more than a decade and a half. Yet, despite this fact, it has been suggested that we should give up helping the people of Vietnam to defend themselves and seek only a political solution.

But a political solution is just what we have already had and it is in defense—in support—of that political solution that Vietnam is fighting today.

United States has never been against political solutions. Indeed, we have faithfully supported the political solutions that were agreed upon at Geneva in 1954 and again in 1962.

The threat to peace in the area stems from the fact that others have not done likewise. The Geneva accords of 1954 and 1962 were precisely political agreements to stop the fighting, to restore the peace, to secure the independence of Vietnam and Laos and Cam-

bodia, to guarantee the integrity of their frontiers and to permit these much-abused people to go about their own business in their own way.

*United States not a signatory*

The United States, though not a signatory to the 1954 accord, has sought to honor these agreements in the hope that they would permit these people to live in peace and independence from outside interference from any quarter and for all time.

To this day, there is only one major trouble with the political agreements reached at Geneva with respect to Vietnam, Cambodia and Laos in 1954 and again with respect to Laos in 1962. It is this:

The ink was hardly dry on the Geneva accord in 1954 before North Vietnam began to violate them systematically, with comradely assistance from the regime in Peiping.

Nearly a million people, as you will recall, living in North Vietnam in 1954 exercised the rights given to them under the Geneva agreement to move south to the Republic of Vietnam.

Even while this was going on, units of the Vietminh were hiding their arms and settling down within the frontiers of the republic to form the nucleus of today's so-called Vietcong to await the signal from outside in order to rise and strike.

In the meanwhile, they have been trained and supplied in considerable measure from North Vietnam in violation of the Geneva agreement—the political settlement.

They have been reinforced by guerrilla forces moved in to the Republic of Vietnam through Laos in violation of the Geneva agreement—the political settlement.

This is the reason—and the only reason—why there is fighting in Vietnam today. There is fighting in Vietnam today only because the political settlement for Vietnam reached at Geneva in 1954 has been deliberately and flagrantly and systematically violated.

As I say, Mr. President, this is the reason why my Government and, to a lesser extent, other governments, have come to the aid of the Government of the Republic of Vietnam as it fights for its life against armed aggression, directed from outside its frontiers in contemptuous violation of binding agreements.

If the Government of the Republic of Vietnam is fighting today, it is fighting to defend the Geneva agreement, which has proved undefendable by any other means. If arms are being used in Vietnam today, it is only because a political solution has been violated cynically for years.

The same disregard for the political settlement reached at Geneva has been demonstrated by the same parties in Laos. Violation has been followed by a period of quiet and then another violation follows. Limited aggression has been followed by a period of calm and then another limited aggression.

Throughout the period since July 1962, when the Lao settlement was concluded, the Prime Minister of Laos, Prince Souvanna Phouma, has with great patience and fortitude sought to maintain the neutrality and independence of his country. He has made every effort to bring about Pathet Lao cooperation in the Government of national union.

Now, in the past few days, we have seen a massive, deliberate armed attack against the forces of the coalition Government of Prime Minister Souvanna Phouma.

The attack was mounted by a member of that coalition Government with the military assistance of one of the signatories of the Geneva accord. These violations are obviously aimed at increasing the amount of Lao territory under Communist control.

*Outright attempt*

The military offensive of recent days must be seen as an outright attempt to destroy by violence what the whole structure of the Geneva accord was intended to preserve.

Hanoi has persistently refused to withdraw the Vietnamese Communist forces from Laos despite repeated demands by the Lao Prime Minister.

Hanoi has also consistently continued the use of Laos as a corridor for infiltration of men and supplies from North Vietnam into South Vietnam.

It is quite clear that the Communists regard the Geneva accords of 1962 as an instrument which in no way restrains the Communists from pursuing their objectives of taking over Laos as well as South Vietnam.

The recent attempt to overthrow the constitutional Government headed by Prime Minister Souvanna Phouma was in large part attributable to the failure of the machinery set up by the Geneva accords to function in response to urgent requests by the Government of Laos.

This machinery has been persistently sabotaged by the Communist member of the International Control Commission, who has succeeded by misuse of the so-called veto power in paralyzing the machinery designed to protect the peace in that area and thereby undermining support for the Souvanna government.

Today, however, that government which was created under the Geneva agreements, remains in full exercise of its authority as the legitimate government of a neutralized Laos.

The other Geneva signatories must live up to their solemn commitments and support Prime Minister Souvanna in his efforts to preserve the independence and the neutrality which the world thought had been won at Geneva.

These solemn obligations, we submit, must not be betrayed.

Mr. President, my Government takes a very grave view of these events. Those who are responsible have set foot on an exceedingly dangerous path.

As we look at world affairs in recent years, we have reason to hope that this lesson has at last been learned by all but those fanatics who cling to the doctrine that they could further their ambitions by armed force.

Chairman Khrushchev said it well and clearly in his New Year's Day message to other heads of government around the world. In that letter he asked for—and I quote—"recognition of the fact that territories of states must not even temporarily be the target of any kind of invasion, attack, military occupation or other coercive measures directly or indirectly undertaken by other states for any political, economic, strategic boundary or other considerations whatsoever."

There is not a member of this Council, Mr. President, or a member of this organization which does not share a common interest in a final and total renunciation, except in self-defense, of the use of force as a means of pursuing national aims.

The doctrine of militant violence has been rendered null and void by the technology of modern weapons and the vulnerability of a world in which the peace cannot be ruptured anywhere without endangering the peace everywhere.

*Way to restore order*

Finally, Mr. President, with respect to southeast Asia in general, let me say this: There is a very easy way to restore order in southeast Asia. There is a very simple, safe way to bring about the end of U.S. military aid to the Republic of Vietnam.

Let all foreign troops withdraw from Laos. Let all states in that area make and abide by the simple decision to leave their neighbors alone. Stop the secret subversion of other people's independence. Stop the clandestine and illegal transit of national frontiers. Stop the export of revolution and the doctrine of violence. Stop the violations of political agreements reached at Geneva for the future of southeast Asia.

The people of Laos want to be left alone. The people of Vietnam want to be left alone. The people of Cambodia want to be left alone.

When their neighbors decide to leave them alone, as they must, there will be no fighting in southeast Asia and no need for American advisers to leave their homes to help these people resist aggression.

Any time that that decision can be put in enforceable terms, my Government will be only too happy to put down the burden that we have been sharing with those determined to preserve their independence. Until such assurances are forthcoming, we shall stand for the independence of free peoples in southeast Asia as we have elsewhere.

And now, Mr. President, if we can return to the more limited issue before this Council today—the security of the frontier between Cambodia and the Republic of Vietnam.

#### *Cambodian stand upheld*

My Government—if there is any misunderstanding about it, let me put it straight—is in complete sympathy with the concern of the Government of Cambodia for the sanctity of its borders and the security of its people. Indeed, we have been guided for nearly a decade in this respect by the words of the final declaration of the Geneva Conference of July 21, 1954, which says:

"In their relations with Cambodia, with Laos and Vietnam, each member of the Geneva Conference undertakes to respect the sovereignty, the independence, the unity and the territorial integrity of the above-mentioned states and to refrain from any interference in their internal affairs."

With respect to the allegations now made against my country, I shall do no more than reiterate what Ambassador Yost, the U.S. delegate, said to this Council on Tuesday morning: The United States has expressed regret officially for the tragic results of the border incidents in which an American adviser was present. Our careful investigations have failed to produce evidence that any Americans were present in the crossing of the Cambodian frontier on May 7 and May 8 and there is, of course, no question whatever of either aggression or aggressive intent against Cambodia on the part of my country.

Let me emphasize that my Government has the greatest regard for Cambodia and its people and its chief of state—Prince Sihanouk, whom I have the privilege of knowing. We believe he has done a great deal for his people and for the independence of his country. We have demonstrated our regard for his effort on behalf of his people in very practical ways over the past decade. We have no doubt that he wants to assure conditions in which his people can live in peace and security.

My Government associates itself explicitly with this aim. If the people of Cambodia wish to live in peace and security and independence and free from alignment if they so choose, then we want for them precisely what they want for themselves.

We have no quarrel whatsoever with the desire of Cambodia to go its own way in peace and security.

#### *Cambodia not left alone*

The difficulty, Mr. President, has been that Cambodia has not been in a position to carry out with its own unaided strength its own desire to live in peace and tranquility.

Others in the area have not been prepared

to leave the people of Cambodia free to pursue their own ends independently and peacefully.

The recent difficulties along the frontier which we have been discussing here in the Council are only superficially and accidentally related to the Republic of Vietnam. They are deeply and directly related to the fact that the leaders and armed forces of North Vietnam, supported by Communist China, have abused the right of Cambodia to live in peace by using Cambodian territory as a passageway, a source of supply, and a sanctuary from counterattack by the forces of South Vietnam, which is also trying to maintain its right to live in peace and go its way.

Obviously Cambodia cannot be secure. Here territorial integrity cannot be assured. Here independence cannot be certain as long as outsiders direct massive violence within the frontiers of her neighboring states.

This is the real reason for troubles on the Cambodian border and this is the real reason that we are here today.

Now it is suggested that the way to restore security on the Cambodian-Vietnamese border is to reconvene the Geneva Conference which 10 years ago reached the solemn agreement which I have read to you.

While I hesitate and dislike to differ with my distinguished friend from Cambodia, I submit, Mr. President, that we can surely do better than that—that there is no need for another such conference. A Geneva Conference on Cambodia could not be expected to produce an agreement any more effective than the agreements we already have.

#### *Complaint discussed*

This Council is seized with a specific issue. The Cambodians have brought a specific complaint to this table. Let us then deal with it.

There is no need to look elsewhere. We can make here and now a constructive decision to help meet the problem that has been laid before us by the Government of Cambodia to help keep order on her frontier with Vietnam and thus to help eliminate at least one of the sources of tension and violence which afflict the area as a whole.

Let me say, Mr. President, that my Government endorses the statement made by the distinguished representative of Cambodia to the Council on Tuesday when he pointed out that states which are not members of the United Nations are not thereby relieved of responsibility for conducting their affairs in line with the principles of the charter of this organization.

We could not agree more fully that the regimes of Peking and Hanoi, which are not members of this organization, are employing or supporting the use of force against their neighbor.

This is why the borders of Cambodia have seen violence. And this is why we are here today and that is why the United States has a duty to do what it can to maintain order—the United Nations. I beg your pardon—has the duty to do what it can to maintain order along the frontier between Cambodia and Vietnam to help uphold the principles of the charter in southeast Asia.

As for the exact action which this Council might take, Mr. President, my Government is prepared to consider several possibilities.

We are prepared to discuss any practical and constructive steps to meet the problem before us. One cannot blame the Vietnamese for concluding that the International Control Commission cannot do an effective job of maintaining frontier security.

#### *Unanimous vote required*

The composition—the tripartite composition—of the International Control Commission which under the Geneva agreements on Vietnam and Cambodia requires that decisions dealing with violations which might lead to

a resumption of hostilities can be taken only by unanimous agreement has contributed to the frustration of the ICC.

The fact that the situation in South Vietnam has reached the crisis stage is itself dramatic testimony of the frustrations to which the International Control Commission has been reduced.

With the exception of the special report on June 2, 1962, to which I referred, condemning Communist violation of the Geneva accords, the Commission has taken no action with respect to the Communist campaign of aggression and guerrilla warfare against South Vietnam.

The representative of Cambodia has suggested that a commission of inquiry investigate whether the Vietcong has used Cambodian territory.

We have no fundamental objection to a committee of inquiry. But we do not believe it addresses itself to the basic problem that exists along the Vietnam-Cambodian border. More is needed in order to assure that problems do not continue to arise.

Several practical steps for restoring stability to the frontier have been suggested, and I shall make brief and preliminary general remarks about them.

I wish to reiterate what Ambassador Yost said the other day—that we have never rejected any proposal for inspection of Cambodian territory.

Now one suggestion is that the Council request the two parties directly concerned to establish a substantial military force on a bilateral basis to observe and patrol the frontier and to report to the Secretary General.

#### *U.N. observers suggested*

Another suggestion is that such a bilateral force be augmented by the addition of United Nations observers and possibly be placed under United Nations command in order to provide an impartial third-party element representative of the world community.

We also could see much merit in this idea. Now, if I am correctly informed, a third suggestion is to make it an all-United Nations force. This might also be effective. It would involve somewhat larger United Nations expenditures than the other alternatives, but if this method should prove desirable to the members of the Council the United States will be prepared to contribute.

We would suggest, Mr. President, that whether one of these or some other practical solution is agreed, that it would be useful to ask the Secretary General of the United Nations to offer assistance to Cambodia and to the Republic of Vietnam in clearly marking the frontiers between the two countries.

One of the difficulties is that there are places where one does not know whether he stands on one side of the frontier or the other. Certainly it would help to reduce the possibility of further incidents if this uncertainty could be removed.

And now in conclusion, Mr. President, with my apologies for detaining the members so long, let me repeat that I am prepared to discuss the policy and the performance of my Government throughout southeast Asia, but that the issue before us is the security of Cambodia and the Cambodian-Vietnam border.

I have expressed my Government's views on that subject. I hope other members of the Council also will express their views on that subject, and that the Council, which is the primary world agency for peace and security, can quickly take effective steps to remedy a situation which could threaten peace and security.

Thank you, Mr. President.

#### *REPLY BY MR. FEDORENKO*

From that noisy and rather sensational show of American advertising techniques which was used today in the statement made by our U.S. colleague, one might have



1964

## CONGRESSIONAL RECORD — SENATE

11365

thought that he was making some really important and substantive statement.

Even the most optimistic observer would have supposed that the United States, having heeded the voice of reason, finally was declaring that it was going to withdraw its troops from South Vietnam, and in particular from the regions which are contiguous to Cambodia.

Others might have expected that the United States would at least have declared its intention to fulfill the Geneva agreements of 1954, which, as you know, have been stubbornly violated by it and whose violation, in the case of Cambodia, has led to this meeting of the Security Council.

#### Travels recalled

Of course, it is necessary to bear in mind the fact that the representative of the United States has been overtaken, as it were, by events when he was traveling overseas. He is obviously still under the impression of his recent Rome meetings and his negotiations and his talks with the NATO bloc where, as we know, it is normal to make speeches regularly under the old tattered flag of anticommunism.

But let me remind our American colleague that he is no longer at secret meetings with his military allies; that he is now at a meeting of the Security Council and that he should not here speak from the platform of the protagonists of militarism, accusing others of all sins possible.

The representative of the United States was, in fact, playing a definite role today; he was speaking from the dock as the accused. And I would remind Ambassador Stevenson that on the agenda of the Security Council for today we have the question of the aggression carried out by the United States and South Vietnam against Cambodia, and that this is what we should be talking about today.

#### U.S. stand challenged

But meanwhile the representative of the United States has attempted to represent matters in such a way as to seem to be speaking in defense of the peoples of southeast Asia, who, according to him, have become the victims of Communist aggression, and he continues to make statements that correspond not at all to the actual state of affairs.

It is indeed strange what can sometimes be done with logic. From Mr. Stevenson's very figurative speech, it would seem that when the United States sends 16,000 soldiers to South Vietnam for the purpose of waging a very cruel and dirty war, to put to the sword and to the flame the people of Vietnam who are struggling for the liberation and independence of their country, the United States, according to their way of thinking, is in some way contributing to an international detente by these actions.

It turns out that by organizing aggression against Cambodia, the American military are in some way making a contribution to the cause of peace.

#### He charges turnabout

This attempt to accuse others in a case of the pot calling the kettle black, and in their search for a scapegoat they have been led to wage a war thousands of miles from their own shores, obviously financed out of their own funds.

The representatives of the United States try to present the affair as if American troops, guns, and money were being used simply in order to guarantee for the population of South Vietnam the right to live under the social system they prefer.

This is a very striking affirmation which, I feel, we must not overlook since it completely distorts the real state of affairs. In South Vietnam the United States has installed, and is maintaining in power by all the means at its disposal, including military

means, a puppet regime which is contrary to the wishes of the people.

The extent to which that regime has been foisted on South Vietnam and is not enjoying any popularity in the country may be seen in the simple fact that over the last 6 months the United States has been obliged to replace three governments there.

#### Question of rules raised

When, at the beginning of the discussion of this item, the Soviet delegation spoke in opposition to the participation of those who pretend to represent South Vietnam, we had in mind particularly the mandate of those rulers.

What mandate do the South Vietnam rulers have? Who gave it to them? From whom did they receive the right to lord it in that region? From the dead or from the living? From Ngo Dinh Diem, the puppet who was set up because of a foreign occupation, whereafter, for the same reason and at the behest of the same people, one usurper was replaced by another henchman?

But, as they say, a monkey with a crown on its head still remains a monkey. The puppets are being changed and are replacing each other—Ngo Dinh Diem, Syngman Rhee and their like. This is part of the policy.

The Eastern peoples are famous for their wisdom, as expressed in the saying that a snake does not become straight if it is put through a bamboo tube.

In order to maintain its puppets in power and to preserve its beachhead for aggression against the peace-loving peoples in southeast Asia, the United States is waging an undeclared war against the people of South Vietnam.

There is a tremendous armed force there which is carrying out a punitive war against the South Vietnamese population. Who, at this present time, would be bold enough to say that those who have taken over from the Foreign Legion, as it were, have now become advisers, friends of the people, and so on?

I shall simply confine myself to a reference to the appeal of a very well-known compatriot of Mr. Stevenson, Senator WAYNE MORSE. I refer to a statement which he made in the Senate on May 18 of this year on the question of the McNamara war in South Vietnam. This appears in the CONGRESSIONAL RECORD, pages 10853-10859. This is what Senator MORSE said:

"We support the totalitarian, military, tyrannical puppet government in South Vietnam. If anybody believes that in South Vietnam people are free, they can hardly be more mistaken.

"We have already been caught red handed when we carried out acts of aggression against Cambodia and Prince (Norodom) Sihanouk threw us out of there. This has put an end to the complex theory which was held by John Foster Dulles, Cambodia and Burma have turned away from us and, as we all know, the theory of John Foster Dulles has nothing left except in Thailand and South Vietnam."

#### Morse letter quoted

In conclusion, I cannot fail to refer to the letter of Senator MORSE to Mr. Stevenson on May 14 of this year. I hope that the members of the Council are familiar with this letter but, to refresh their memories, I should like to give a brief quotation from it:

"As you know, I consider that the unilateral military action which the United States is carrying out in South Vietnam is not in accordance with international law and is by no means justified under it, as well as being irreconcilable with our obligations under the Charter of the United Nations.

"I realize the delicate position you are in. Nevertheless, I consider that the American people have a right to know whether you are in accord with the policy of sending

American lads to die in South Vietnam, where war has not been declared.

"Finally, I am much concerned about the fact that, as I see it, we are subverting and undermining the United Nations. I am very much afraid that we are weakening the United Nations."

These opinions fill us with considerable concern and anxiety. We share the concern and alarm expressed by Senator MORSE. And are we not justified in expecting from a member state of the United Nations—a permanent member of the Security Council—some objectivity in assessing the situation which has become the subject of discussion in the Security Council?

Are we not entitled to expect an acknowledgment of the very grave crimes which have been committed against an independent state, Cambodia, a member state of the United Nations?

I feel that it is hardly necessary to have an interpretation of my remarks. Do you not think, Mr. President, that it would be well, to refrain from any interpretation in view of the extreme clarity of my position?

[From the New York Times, May 22, 1964]

UNITED STATES PUTS A JET WATCH OVER LAOS—  
AIR AID REQUESTED—PLANES SCOUTING REDS  
BECAUSE TRUCE UNIT CANNOT FUNCTION

(By Hedrick Smith)

WASHINGTON, May 21.—The Government disclosed today that unarmed U.S. jetplanes piloted by Americans had been flying reconnaissance missions over the Plaine des Jarres, in central Laos, to gather information on Communist forces.

A State Department spokesman said the missions had been undertaken at the request of the Government of Laos because of "the current inability of the International Control Commission to obtain adequate information" on recent attacks on neutralist and rightwing forces in Laos.

The commission, made up of representatives of India, Canada, and Poland, is assigned to supervise the numerous truces in the fighting between pro-Communist and anti-Communist forces in Laos.

Coupled with the disclosure of the reconnaissance flights was a report by qualified sources that the United States had provided the bombs being used by the Laotian Air Force for raids against the pro-Communists' positions in the embattled Plaine des Jarres.

These sources indicated that the bombs were supplied some time ago at the request of the Laotian Government under the July 1962, Geneva agreements between East and West. Under these accords Laos was to be unified and neutralized, with a government to consist of neutralist, rightist, and pro-Communist factions. The current raids were the first in which the bombs were used.

#### FIRST OFFICIAL ADMISSION

The announcement of the reconnaissance flights was the first official acknowledgment since the signing of the Geneva accords that the United States was taking a military role in Laos.

The disclosure came in the wake of reports from Tokyo quoting the Peiping radio to the effect that pro-Communist Pathet Lao troops had fired on American planes over Laos. Officials here could not confirm that any planes had been fired upon.

The State Department's acknowledgement of the flights was viewed by observers here as having as much importance as the flights themselves or even more.

It was interpreted as part of a carefully developed plan by the Johnson administration to demonstrate that it was prepared to go beyond traditional diplomatic gestures of showing its concern over military attacks against the neutralist forces in Laos.

The announcement was also viewed as a parallel move to a speech in the United Na-

11366

## CONGRESSIONAL RECORD — SENATE

May 22

tions Security Council today by Adlai E. Stevenson, the U.S. delegate, in which he denounced aggression in Laos and South Vietnam.

## ORIGIN NOT DISCLOSED

Officials did not disclose where the reconnaissance flights originated but they left the impression that the planes flew from and landed outside Laos, presumably neighboring Thailand. The type of planes being used was also not disclosed.

Officials turned aside suggestions that the reconnaissance flights might be a violation of the 1962 Geneva accords on Laos by noting that the accords make no mention of reconnaissance flights.

Washington also argued that continued violations of the accords by the Pathet Lao and North Vietnamese forces and their refusal to permit the International Control Commission to inspect their areas made the flights necessary to preserve the accords.

Officials repeatedly emphasized that the United States considered that the 1962 agreements, which are the basis for Premier Souvanna Phouma's Government, were still in force and that the reconnaissance flights would certainly not cause them to be scrapped.

The agreements, signed by the United States and 13 other powers, including North Vietnam and Communist China, forbid "the introduction of foreign regular and irregular troops, foreign paramilitary formations and foreign military personnel into Laos."

Officials here maintained that since the flights presumably started and ended outside Laotian territory and airspace, the aircraft and personnel were not being "introduced" into Laos.

Another provision of the agreements permits the introduction of "quantities of conventional armaments as the Royal Government of Laos may consider necessary for the national defense of Laos."

The officials indicated that Premier Souvanna Phouma, who has accused the Pathet Lao and North Vietnamese forces of violating the accords during the current fighting, had orally requested U.S. support under this provision.

The flights began a few days ago and are continuing, the officials said. They were authorized by high administration officials with President Johnson's approval.

## TO ASSIST IN EVERY WAY

In a prepared statement on the reconnaissance flights, the State Department said: "We are working with the Royal Lao Government in response to its request to assist in every way possible in supplementing its information on the intention and dispositions of attacking forces."

"For this purpose, certain U.S. reconnaissance flights have been authorized in view of the current inability of the International Control Commission to obtain adequate information. Information obtained will be turned over as rapidly as possible to the ICC."

Officials said the planes were surveying troops, supply depots, and positions for photographs that could conceivably be used to document further charges of aggression against the North Vietnamese and the Pathet Lao forces before the United Nations. It was indicated that copies of the photographs would be flown back to Washington as well as being turned over to truce commission representatives in Vientiane.

Officials maintained that the flights were the first American jet reconnaissance missions over the Plaine des Jarres in central Laos in the last 2 years.

There have been reports that the United States was using high-flying U-2 jets on reconnaissance missions over southeast Asia. There has also been speculation that recon-

naissance planes based in Thailand or South Vietnam have periodically flown photographing missions over the Ho Chi Minh Trail in eastern Laos to watch for North Vietnamese troop movements toward South Vietnam.

On the diplomatic side of the Laos issue, qualified sources said Secretary of State Dean Rusk had strenuously objected to the French Ambassador, Hervé Alphand, over a French proposal yesterday for a new international conference on Laos.

Officials here were both shocked and irritated that Paris had put forth the proposal without having consulted its allies.

In response, the United States and Britain have decided to turn aside the French suggestion by throwing their support to a separate proposal for consultations in Vientiane among the 14 nations that signed the 1962 agreements.

Robert J. McCloskey, State Department spokesman, reiterated that the United States was "agreeable to consultations in Vientiane, as suggested by the Prime Minister." He refrained from commenting directly on the French proposal.

Washington is fearful that any formal international conference would provide Communist China and North Vietnam with a forum for propaganda demands calling for neutralization of all the Indochinese Peninsula.

Officials here also believe that it would be a mistake to have Prince Souvanna Phouma leave Laos at a time when his forces are beleaguered and the Communists have been trying to undermine his position.

Washington also contends that to hold an international conference now would be to "reward the aggressor," as one official put it, referring to the military attacks on neutralists and rightwing forces.

Nonetheless the French proposal drew support from Senator Mike Mansfield, the majority leader, who has often been at odds with the administration on southeast Asia policy.

[From the New York Times, May 22, 1964]

## BRITISH GOAL: CONSULTATIONS

(By Sydney Gruson)

LONDON, May 21.—Britain concentrated her diplomatic efforts today on trying to bring about "consultations" on Laos among the countries that worked out a solution for the Asian kingdom's political problems in Geneva in 1962.

Such consultations, which were requested Tuesday by Prince Souvanna Phouma, the neutralist Premier of Laos, would have the effect of shelving France's proposal last night for a more formal 14-nation conference.

Prince Souvanna Phouma suggested that representatives of the 14 countries "consult" in Vientiane, the Laotian administrative capital, where all except Burma have diplomatic missions.

The 14 are Britain, the Soviet Union, the United States, France, Communist China, India, Canada, Poland, Burma, Thailand, Cambodia, North Vietnam, South Vietnam, and Laos.

The French proposal, made to Britain and the Soviet Union as cochairmen of the 1962 conference, was brief. It said a new session was necessary to solve the problems of Laos, which have been complicated by the pro-Communist Pathet Lao forces recent military victories and the merger of the kingdom's rightwing and neutralist factions.

The United States had asked France and Britain, among other countries with diplomatic representation in Peiping, to seek Communist China's help to end the fighting in Laos. Britain acted promptly to do so, though without results so far, but the French refused, according to reliable sources here.

The French stand was reliably reported to

be that it would be useless to seek China's assistance.

## PROPOSALS CALLED SIMILAR

The British Foreign Office took pains to explain that it was not "knocking down" the French proposal in issuing a statement today expressing support for Prince Souvanna Phouma's "efforts to promote consultations in Vientiane."

Asked if the statement meant that Britain ruled out the idea of convening a formal conference, Michael Hadow, Foreign Office spokesman, said "No."

"We are considering that and consulting about it," he added. He said the French proposal and the proposal by the Laotian Premier were "on very similar lines."

British officials conceded that the situation in Laos might come to the point where a conference was inevitable. But it was clear to observers that Washington and London would do everything possible to keep any consultations or conference at the lowest possible diplomatic level.

British officials indicated that renewed representations would be made soon to the Soviet Union and Communist China. For the moment, there was little hope that the Chinese would be amenable immediately to restoring the situation in Laos.

At best, it is felt here, a halt might be called in the Pathet Lao offensive. At worst, it is feared, the Chinese will encourage the Pathet Lao forces to sweep to the Mekong River and provoke a serious military confrontation with the United States, which is committed to assist in the defense of Thailand, which borders on the Mekong.

[From the New York Times, May 22, 1964]

## PARIS WIDENING PROPOSAL

(By Drew Middleton)

PARIS, May 21.—President de Gaulle's government declared anew today that the guaranteed neutrality it seeks for Laos should be extended to neighboring nations.

A statement to this effect by Foreign Minister Maurice Couve de Murville after a Cabinet meeting apparently widened the latest French diplomatic initiative to include the southeast Asian states of North and South Vietnam and Cambodia. But France, like the other governments involved, insisted that the situation in Laos take priority.

Cambodia's ruler, Prince Norodom Sihanouk, has already asked for a conference to guarantee his country's neutrality. The French have supported his request.

General de Gaulle, who presided over the Cabinet meeting, believes that North and South Vietnam should be united in independence and their neutrality guaranteed.

Because of the urgency of the military situation in Laos, the French Government is concentrating on assembling a conference to deal with that problem.

Mr. Couve de Murville, in letters to Britain and the Soviet Union, did not specify the level or site of the session he proposed. Qualified French sources said the Government did not believe that a conference at the ambassadorial level in Vientiane, as proposed by Prince Souvanna Phouma, would be high-powered enough.

The French are apparently thinking of a conference attended by deputy foreign ministers. Geneva now seems the most likely site, but the French will not insist on it.

As reported by Information Minister Alain Peyrefitte, Mr. Couve de Murville told the Cabinet:

"There is no other solution to the problem of Laos than neutralization guaranteed by the (interested) powers. A true and sincere solution of neutralization must extend to all of southeast Asia. It is the sole guarantee of the peace and independence of the states."



1964

## CONGRESSIONAL RECORD — SENATE

11367

PARIS, April 2, 1964.

HON. ERNEST GRUENING,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR GRUENING: Vietnamese problems have given rise to numerous controversies in your country. I know that, despite your many duties you have taken an active interest in the sad drama of my country and for this reason I am writing to you to give you my points of view on the problems which face us.

As I wrote to Senator Fulbright and Secretary of State Dean Rusk last February 25, neither the neutralization of Vietnam, as supported by both the Communist bloc and General de Gaulle, nor an "escalation of the war" are solutions acceptable to the Vietnamese people.

The only truly viable solution is to help the Vietnamese people attain a position of political, ideological, economic, and military strength which will make it possible for us to carry on and win what has so often been called "a Vietnamese war." This increased capability can only be attained by means of sweeping political and social reforms including a change from military dictatorship to representative nationalist government.

The policy of the Johnson administration, like that of its predecessor, is basically sound. The commitment to aid Vietnam until final victory over the Communists has been achieved is a stance worthy of a great nation and the leader of the free world. But why has this policy—so good in itself, so just and so heavily supported—been so completely frustrated during these past 10 years? The answer is simply that American aid has been misdirected. The wrong leaders and the wrong groups have received and abused American support while the Vietnamese people and their legitimate nationalist leadership have been virtually ignored.

American support for Diem's regime, justified and successful for so long as Diem had the support of the Vietnamese people and the nationalist leadership, became untenable when he and his family began to abuse their power, thereby divorcing themselves from popular support. After that point, neither massive American aid in money, material, and manpower, nor the frequent declarations of wholehearted support from certain American officials could save our mandarin from catastrophe.

Diem's downfall was the clear refutation of all policies involving the support of dictatorships without regard to the will of the people. In revolutionary Asia, such tactics are outdated; they simply cannot work. America's hasty rush to support the new military strong man Gen. Nguyen Khanh following his unpopular coup d'etat and the subsequent American campaigns describing the general as a man who enjoys the admiration, respect, and complete support of the United States, indicate that we are in for another round of the disastrous brand of pragmatism which prescribes any kind of government so long as it is not good government, any kind of leaders so long as they are unpopular and dictatorial. . . . The same mistakes which led to the catastrophe of Dienbienphu and later to the bloody fall of Ngo Dinh Diem are starting all over again.

The Vietnamese people, one of the most courageous and persevering in Asia, have known thousands of years of colonialism under the Mongols, Chinese, and French. We are currently in the midst of a guerrilla war which has gone on almost uninterruptedly for two decades. Through all this time we have suffered under governments and leaders chosen not by ourselves, but imposed by force from the outside. When America entered the scene of our struggles, we hoped—and we still hope—that with the friendship and support of your great nation—leader and champion of the free world—we could

finally realize our centuries-old aspiration to be a free and independent people with a responsible government devoted to the national interest and serving the popular will. We did not foresee new dictatorships, new police-state methods, and new oppression. We could not have expected the same errors, the same insults, and the same disregard for Vietnam's legitimate interests and leadership that characterized the French involvement in Indochina.

For my part, I am convinced that if America is genuinely interested in helping Vietnam defend her freedom and independence against the Communist menace, she must help us to install a representative civilian government with the participation of all the foremost nationalist leaders in the very shortest time possible. With genuine representation embodied in government under the leaders who have earned real popular support by their long and dedicated struggle against communism, dictatorship, and feudalism, we can assure a renaissance of the national spirit. A nationalist government can create the atmosphere of purpose and dedication—so sorely lacking today—that can turn the tide against the Communist aggressors.

I believe that if Khanh is really the great military genius he is claimed to be, he should be named supreme commander of all Vietnamese forces and be given a year to "pacify South Vietnam." Then he could begin his triumphal march to Hanoi and realize the unification of the country as he has so often said he could. There is no point in wasting the time of this military wizard in diplomatic maneuvers with Sihanouk, Chiang Kai-shek, and De Gaulle or in parades and "barnstorming" tours. If he can win the support of the army and galvanize its will to fight, then the route to quick and total victory has been found.

Too much time, money, and prestige have been wasted during these last years in supporting the false doctrine of building up strong men in hopes of winning the war by strictly military means. Continued, obstinate adherence to this policy can only end at the bargaining tables of Geneva and a humiliating defeat for the free world and all it stands for.

I would like to draw your attention equally to the massive utilization of napalm and white phosphorus against defenseless cities and villages as reported in the New York Herald Tribune, April 2, 1964. Instead of killing Vietcong combatants, this tactic takes its greatest toll among innocent civilians including women, children, and the aged. These barbaric attacks are acts of reprisal and repression which succeed in little more than turning the peasant population against the United States which supplies the necessary bombs and aircraft. This is not the way to win the minds and hearts of men—rather it is the way to become known as the new colonialists. Because of tacit American support for these actions, there is a growing gulf between the Vietnamese and American peoples which has become a serious threat to the interests and prestige of your country. I hope that you will do everything in your power to limit these bombardments in favor of attacks on strictly military objectives which do not slaughter or alienate the civilian population.

I know perfectly well that Khanh and his regime are being launched even more strongly than was our mandarin and that consequently any change in America's Vietnam policy is unlikely for the near future. Duty, my friendship for your great Nation, and love of my own country nonetheless, compel me to continue my appeals for commonsense in this important struggle. The solution of Khanh and the sects is an imaginative one. Followed too long, it will complete the destruction of your efforts, prestige, and interest in Vietnam. Only the nationalist program offers real prospects for

an anti-Communist victory. Only a representative nationalist government can create a prosperous and powerful bulwark in the image of Japan and West Germany, to face the Communist threat and the neutralist conspiracy of Prince Sihanouk. Within the next few weeks I will be sending you a detailed program which can—if it is applied in time—save South Vietnam from what appears to be almost certain disaster. This nationalist program for unity and progress outlines a step-by-step procedure for establishing the fundamental conditions for victory in Vietnam. I hope that you will find this material both interesting and useful.

Please accept my deepest respects. I remain,

Sincerely,

TRAN-VAN-TUNG.

TRAN-VAN-TUNG

Tran-Van-Tung, renowned author of more than 12 books on the culture and traditions of his country, was born in 1915 in central Vietnam, the eighth child of a well-known and prosperous family. Constantly in search of new knowledge, he acquired a Chinese classical education, and then supplemented it by studies in Paris.

By the end of World War II, he was already an acclaimed writer and journalist, several times Laureate of the Académie Française, and prizewinner of the Academy of Political Science in Paris for his farsighted and brilliantly written book, "Vietnam Faces Her Destiny." Many of his works, which include essays, poems, and tales of Vietnam, have been published by Mercure de France, Grasset, etc. His most recent books include "La Colline des Fantômes" (Editions du Parc, France), "Vietnam Against Communism" and "Vietnam" (La Baconnière, Switzerland). "Vietnam" has also been published in English by PRM publishers of London.

Although he represented his country on several important occasions, including the anniversary of the French Revolution in 1939, the Nationalist Asiatic Conference in India in 1950 (where he first met Nehru and other Asian leaders), and the Far East Conference held in New York in 1952, Tran-Van-Tung was primarily a man of letters, an historian, and a thinker. Because of his strong humanitarian principles and his firm belief in the ideals of liberty, he has always been an arch enemy of communism, colonialism, and the monarchy in Vietnam, and has written articles expounding his views in leading American newspapers, as well as in his books.

But it was only after disaster wiped out his family and his possessions that Mr. Tung began to take an active role in politics. Following the Communist invasion of central Vietnam, his mother died of hunger, his five brothers and seven sisters were assassinated or imprisoned, and all his property was confiscated. It is now 10 years since he has had any news of his family from Communist-controlled central Vietnam, and Tran-Van-Tung has dedicated his life to the struggle against the Communists who seek to conquer the rest of Vietnam.

In 1952, while he was representing Vietnam at the Far East Conference in New York City, Mr. Tung was summoned to visit Ngo Dinh-Diem, who was then taking refuge at the Maryknoll Seminary in Ossining, N.Y. Mr. Tung met with Diem and urged him to return to Saigon to help in the struggle against communism. He continued to support Diem until 1956, despite his growing disillusionment with Diem's policies and dictatorial methods, and his inability to defeat the Communists. In 1955, the Democratic Party of Vietnam was formed to defend the liberty and independence of the young Republic. Mr. Tung is the guiding light of this party, whose aim is to establish a free and democratic government, and to achieve, through a concrete program, the best material, intellectual, moral and social con-

ditions for the people of Vietnam. When, in 1957, Diem banned all national political parties and imprisoned all leaders opposed to him, Mr. Tung realized fully that Diem had betrayed the cause of liberty in Vietnam, replacing the principles in which Mr. Tung so strongly believes with a corrupt dictatorship and totalitarian methods similar to those employed by the Communists.

At present Mr. Tung continues to fight for liberty and to oppose communism and dictatorship with all the strength of his forceful personality. He represents the new generation of Vietnamese, and is the recipient of many messages of esteem from such world leaders as President John F. Kennedy, General de Gaulle, Ramon Magsaysay, etc. He leads a simple, ascetic life, reads voraciously, and works untiringly. A man of thought, to whom personal wealth is of no importance, Tran-Van-Tung is a fervent nationalist, and an anti-Communist by principle and idealism, as well as through personal tragedy. For 10 years he has been actively engaged in the struggle against communism, feudalism and dictatorship. His one passion is his country, and his only goal the liberty and welfare of his people.

[From the Washington Post, May 16, 1964]

#### VIETNAM STRATEGY—DOUBTS RAISED OVER McNAMARA PLAN

(By Warren Umana)

Secretary of Defense Robert S. McNamara's press announcement Thursday on the decision to beef up the South Vietnamese Air Force is causing considerable dismay among some official quarters in Washington.

They see McNamara's decision as a green light to those high officials in the U.S. Air Force and the South Vietnamese military who think they can win the war against the Communist Vietcong by dropping bombs.

The Air Force theory is that a bomb is the quickest, cleanest, and most effective way of wiping out the Communists—within South Vietnam as well as across the borders in Communist North Vietnam and neutral Cambodia.

But some State Department and U.S. Army officials argue that what the Air Force calls a "Vietcong base" may well contain many innocent Vietnamese farmers. They say bombing them will only alienate the Vietnamese people from both their own government and the United States, and force them to be more sympathetic toward the Vietcong.

McNamara, at his White House press conference Thursday, announced an agreement with the Vietnamese to increase the number of planes in the Vietnamese Air Force, as well as to double the present 200 South Vietnamese pilots.

On Wednesday, Air Force Secretary Eugene M. Zuckert announced that 75 Navy Skyraider bombers, capable of carrying three times the load of present U.S. planes in South Vietnam, now were en route to the war front.

Yesterday, Presidential Press Secretary George Reedy indicated Mr. Johnson soon may be sending up a special budget request to Congress to take care of increased U.S. military assistance to South Vietnam.

All this would be in line with the traditional American response to send in more men, equipment, and money whenever the going gets rough—and particularly when Congress begins heckling an administration for not producing victories.

But what is the current situation in South Vietnam?

Officially, the Pentagon lists the number of Vietcong infiltrators at 25,000.

Against these there are:

More than 16,000 U.S. military "advisers," 2,000 to 3,000 of them actually in the field. The rest, including some 14 to 15 generals—enough for an Army group headquarters

used in the battle of Europe—sit in the capital of Saigon.

A regular Vietnamese Army of 250,000 plus some 200,000 paramilitary members of the Self-Defense Corps and the Civil Guard.

The rule of thumb ratio for fighting a guerrilla war is 10 to 1. South Vietnamese forces, exclusive of their American advisers, outnumber the official estimate of Vietcong by 18 to 1.

In addition, a highly placed U.S. military authority in Saigon is reported to have acknowledged that there hasn't been one casualty to a Vietnamese officer above the rank of captain in the past 2 years. He added that once a man gets to be a major he seeks a staff command back in Saigon, not a field command exposed to fire.

In the face of these statistics, indicating something is needed besides more men, equipment, and money, the U.S. Air Force and the Vietnamese military want more bombing raids, and by jets if possible.

Moreover a Joint Chiefs of Staff memo in January reportedly pushed by the Air Force over the reluctance of the Army deplores the diplomatic inhibitions being put upon the military. These restrictions confine bombing targets to within South Vietnam.

Now, with more planes and more pilots circling the skies over a Vietnamese guerrilla ground war significantly devoid of conventional bombing targets, critics of the Air Force think the temptation to bomb villages under the label of "Vietcong bases" may become overwhelming.

But will such bombing win the war?

Those in Washington who say it won't, and who oppose the U.S. Air Force and the Vietnamese bomb advocates, contend the answer is not more men, equipment, and money.

These critics are not sure the war can be won at all.

But if it can be, they argue that more attention be paid to getting Vietnamese as well as American brass out of Saigon, to decentralize the U.S. military advisers, to dispatching U.S. military to South Vietnam on a voluntary basis so they don't count the days until their return, and to seeing to it that U.S. aid gets out into the countryside where it is needed.

BERKELEY, CALIF.,

May 20, 1964.

Senator GRUENING,  
Washington, D.C.:

Students urge an immediate end to war in Vietnam; withdrawal of U.S. troops and materials; abide by the 1954 Geneva agreement.

(The above telegram was signed by the following students:)

Deborah Rossman, James Taylor, Margie Jacobsen, R. M. Hamilton, Carol Davenport, Carla McCabe, Ronald Slayen, Wendell Brunner, Edward Resenfeld, Dorothy Mith, Bruce Gale, Alice Large, Frank Andrews, Stanley Narrar, Denn S. Anderson, Stanley Fishkin, Romer Greene, Jeff Lustig, R. Farrell, Marsha Wick, Myrsan Wixman, Jack Kurzwell, Lin Jensen.

Judy Meyers, Eden Lipsom, Arnold Abrams, George Goldman, Jerry Weber, Thomas Miller, Patti Iiyama, Ken Cloke, Florence Yellin, Christopher Stantlend, Christina Wren, Sheila Walsh, Matt Canon, Bill Rottenberg, Ron Borden, Douglas Hamilton, Mark Birnbaum, Peter Schaffer, Nicholas Jankowski, Allen Bortel, Margaret Koester, Judith Toben, Elsa Johnson, Carolyn Smith, Margarte Flanigan, Myran Warshaw.

Roslyn Tumen, F. Brunke, David Walls, Mark Davenport, Ellen Frank, Laurence Slayen, John Perlman, Thomas Smith, Kathleen Barta, Michael Kogan, Jan Cattellica, Gordon Willson, Susan Davis, Henry Lorenzvi, Michael Miller, Dave Minor, Bonnie Walters, Robert Cresse, Sandra Luck, Alfred Walters,

Susan Miller, Roy Torkington, Marian Moses, Allen Ren, Susan Garlock, Anita Levine, Carol Furst, Ann Higginbottom.

Sandor Fuchs, Richard Hoffmann, Leo Downey, Amelia Clemens, Barbara Whitt, Michael Whitt, Madge Strong, Thomas Weller, Sandra Nicholson, Peter Aborn, John Rooerts, Art Goldberg, Leanne Tannenbaum, Steven Plageman, Armin Wright, Stephen Jacobsen, Hal Fretwell, Judith Baston, Ellen Horwitz, Tom Paine, Linda Murrell, Steven Crafts, Jean Rothman, Harvey Meyers, R. Falenbaum, Bob Nakamura, Marie Holliday, Ronald Alkin.

Anita Pitz, Anne Boytin, Michael Galvin, James Ogden, Timothy Thomas, Roy Douglas, Janet Weltzner, Henry Weinstein, Libbe Hurvitz, Gerald Wick, Deborah Bartlett, Carol Lyons, Judith Stein, Jerry Fish, Arlene Cosano, Alice Schwartz, Robert Dietrich, Hugh Fowler, Paula Katz, Goerge Higginbottom, John Williams, Elliot Costello, Thomas Dodd, Judy Winston, Peter Muldavin, Linda Smith, Penny Guy.

David Stein, Mary Kington, Priscilla Dudley, Petter Bissell, Edwin Wilson, Ronald Rohman, P. Sholund, Susanna Faic, Robert Johnson, Colleen Eldridge, Stephen Weinstein, Richard Gardner, Eva Havas, Donald Kelsey, Donna Launer, Arlene Bienne, Joe Hacker, Jeannie Wald, Elaine Duncan, Eve Corey, Susan Swift, Joe Webb, Brude Boston, Robert Hayes, Bruce Cox, Jan Dash, David Heath, Michael Millmah.

Stephanie Probst, Margaret Lima, Carl Clewlow, Robin Rosenoerg, Helen Fein, Marlene Licht, Craig Moody, Mike Smith, Harry Roberts, Carolyn Pardee, Rob Pierre, Rutham Corwin, Abraham Bahr, Stephanie Waxman, Sandra Brett, Claude Beagane, Bob Williams, Earl Lalo, Bruce Pohdron, Eugene Lavenger, Chip Weltzner, Margie Tette, Ben Crites, Maryanne Ses, P. Phalarlyn.

Mr. MORSE subsequently said: Mr. President, while I was serving as one of the hosts of a group of visiting Oregonians, I was not on the floor of the Senate when the Senator from Alaska [Mr. GRUENING] delivered his speech today on South Vietnam, which he entitled "Bring the War in South Vietnam Also to the Conference Table."

I read the speech, and I congratulate him again, as I have done repeatedly in recent months, as the courageous, dedicated Senator from Alaska has stood on the floor of the Senate and spoken out in righteous and rightful criticism of the foreign policy of the United States in southeast Asia.

His speech today is an additional chapter in criticism of American foreign policy in South Vietnam.

I think so highly of this series of speeches of the Senator from Alaska that I would at this time suggest that, with only the slightest of revision, they would be suitable for publication in a book.

It has been a matter of pride to me to stand shoulder to shoulder with the Senator from Alaska [Mr. GRUENING], the Senator from Louisiana [Mr. ELLENDER], and the other day the Senator from South Carolina [Mr. JOHNSTON], in criticizing American foreign policy in South Vietnam.

To the extent that he has suggested modifications in American foreign policy in South Vietnam, I have also been pleased to applaud the majority leader of the Senate [Mr. MANSFIELD]. I believe the statement that the majority leader made of recent date, suggesting that we ought to consider fully a pro-



1964

## CONGRESSIONAL RECORD — SENATE

11369

posal of the French for a change of policy in South Vietnam, is absolutely sound.

But I particularly wish to commend the Senator from Alaska for his speech today. In the news release it is stated that "the May 21 decision of the Johnson administration to place the Cambodia-South Vietnam border dispute in the hands of the United Nations Security Council has been praised by Senator ERNEST GRUENING today."

In the speech itself, the first paragraph reads as follows:

President Johnson and Ambassador Stevenson are to be highly congratulated for taking a portion of the Southeast Asian mess to the United Nations. That is precisely where it belongs. I have so urged ever since March 10, 1964, when I spoke in the Senate and stated that the United States should get out of South Vietnam and immediately pull our troops back from the fighting front.

I wish to say I am glad the President and Mr. Stevenson, our Ambassador to the United Nations, at long last have apparently come to recognize that the United Nations has an interest in what goes on in South Vietnam. That is some progress.

The Senator from Alaska also points out in his speech that comments of various newspaper columnists and correspondents today indicate that this may be the beginning of a change of policy on the part of the United States, whereby we shall gradually take the South Vietnam matter to the United Nations.

I not only hope so—I pray for it.

But the suggestion that the Cambodian dispute be handled by the United Nations will, of course, not solve the problem. As I pointed out in a long speech in the Senate last night, the entire southeast Asia issue should have been taken by the United States to the United Nations months ago. The United States should stop its illegal, unconstitutional course of action in South Vietnam, resulting in the unjustifiable killing of American boys.

This gesture on the part of the U.S. Government, through the lips of Adlai Stevenson yesterday that the Cambodian border dispute be taken to the United Nations is far from a satisfactory proposal for a solution of the South Vietnam crisis.

As I said last night, and as I repeat today, I think the speech of Adlai Stevenson yesterday was unfortunate, unsound, and inexcusable.

Adlai Stevenson knows better. He can never justify the use of his lips yesterday in uttering a speech in which he walked out time and time again from the glorious record of statesmanship that he has made in the past. That is behind us now. The question is whether or not this country is to make a recovery. It is a question of whether or not the United States is going, at long last, to reassert itself for the application of the rule of law in the settlement of disputes that threaten the peace of the world, rather than rattle the U.S. sabre and, behind the scenes, get ready to escalate the war into North Vietnam. For that is what is going on now. For what I said last night

and what I say today and what I shall continue to say day by day, I shall have many castigations heaped upon my head, including those of yellow journalism, one of whose writers in a story today suggested that the Senator from Oregon talked as if he were speaking from the Kremlin.

None of those yellow journalists hate communism more than does the Senator from Oregon. But I obviously love my country more, because my country cries out for the application of the rule of law for the settlement of the dispute in southeast Asia. My country cries out for a return to the fulfilling of its obligations under the United Nations Charter.

Adlai Stevenson, in his speech of yesterday, in paragraph after paragraph, walked out on the very organization in which he sits as the Ambassador from the United States. He walked out on article 33, article 37, and article 51. He walked out on the pledges of the United States, under the United Nations Charter, to resort to peaceful procedures, and not military might, for the settlement of disputes that threaten the peace of the world.

Of course it is not pleasant for me to say this—a longtime admirer of the great Stevenson. I resigned from the Republican Party in 1952, in the midst of a campaign, so I could campaign for Stevenson. I thought I had no ethical right to remain in the Republican Party and campaign for him as the Democratic candidate. But the Stevenson for whom I campaigned in 1952 and 1956 was not the Stevenson who talked in the Security Council of the United Nations yesterday. He never before made a speech consisting of such a chain of non sequiturs and rationalizations of unsound policies. But he was mouthing the policy of our Government.

An ambassadorship is not worth that price. So I am again raising my voice in plea today that this country go back into the United Nations in fact—in practice—rather than merely keep a membership in it.

I am raising my voice in plea again today that the United States lay the whole southeast Asia issue before the United Nations and put Russia on the spot. Let Russia dare to use the veto in the Security Council on the question of taking jurisdiction of the southeast Asia issue. If she does, the course of conduct of my Government should be clear. We should call for an extraordinary meeting of the General Assembly of the United Nations and lay the whole issue before it. Let the General Assembly of the United Nations determine whether the United Nations will attempt to maintain peace, which is its primary purpose. We support this type of procedure and program in the Middle East, in the Congo, in Cyprus, why not in southeast Asia? We should not limit a proposal for United Nations jurisdiction to South Vietnam. It involves North Vietnam. It involves Laos. It involves Cambodia. The whole area of Indochina should have United Nations jurisdiction extended to it and maintained in order to keep the peace.

I am aghast, Mr. President, at my Ambassador in the United Nations, Mr.

Stevenson, suggesting as American policy our opposition to another conference called for by France of the Geneva accord membership. We did not even sign the Geneva accord of 1954. We are the last country to talk about not having a conference of the signatories to the Geneva accord of 1954. In my judgment, France should be applauded for suggesting the reconvening of the Geneva accord conference. This time, if it is reconvened, I hope that the United States will sit as a member, and a voting member, and, by way of peaceful procedures of international law, reach a settlement or a program for seeking to maintain peace in South Vietnam, and not to make war.

What a reflection on the United States that in southeast Asia today the United States is making war. What does that do to all the professions of our leaders about their desire to promote peace? We do not promote peace by making war. We do not promote it by following a unilateral military course of action resulting in the loss of thousands of lives, and which is now beginning to result in the loss of several hundred American lives.

If we do not stop this holocaust, I warn again—as I have warned many times on the floor of the Senate in the past several weeks—that thousands of American boys will be killed in southeast Asia. For if this war is escalated into North Vietnam, a holocaust of major proportions will result.

I have no intention of sitting in the Senate and supporting a program which will kill American boys in the jungles of Indochina without any justification.

Mr. President, I hope that my Government will go much further than merely to suggest that a United Nations council or peacekeeping corps of some kind be set up to patrol the borders of South Vietnam and Cambodia. Along with the Senator from Alaska [Mr. GRUENING], I would welcome that, of course. It is better than nothing, but not much better than nothing. It could be the beginning of a full-scale program of returning to the United Nations in practice. That is what I hope it will lead to. But we do not have much time, for the situation can get out of hand.

We have been dragged before the United Nations by a complaint from Cambodia. As the Senate knows, for many weeks past I have been warning in my almost daily speeches that sooner or later we would be called to render an accounting before the United Nations on this issue. It was up to little Cambodia to file its complaint, after she had kicked us out of Cambodia.

If it were not so tragic, it would be amusing to read that part of Stevenson's speech yesterday which admitted violation of Cambodian borders in the incidents in which we were caught red-handed.

I have received many letters written by American servicemen in South Vietnam to the effect that violations of the borders of Cambodia have been frequent.

We must expect that to happen, Cambodia is a small territory. With all the air combat going on, it must be expected that violations of her borders will occur. That does not make it right. That

11370

## CONGRESSIONAL RECORD — SENATE

May 22

does not excuse it. But that is a part of the warmaking business. What I wish to do is to get my country out of the warmaking business into the peacekeeping business. We are a member of a great organization known as the United Nations which has as its primary purpose—in fact, its objective—the maintenance of peace by resort to peaceful procedures of international law encompassed by reference in the United Nations Charter.

So I say to my President, to my Secretary of State, to my Secretary of Defense—and now to Adlai Stevenson: "Please bring to an end your illegal McNamara's war in South Vietnam. Stop it. Call upon the United Nations to take over and maintain a peacekeeping corps in southeast Asia which will bring an end to the killing that is going on."

I state once again the great tenet of a great Republican who was my best teacher in the field of foreign policy. I have cited it before, but it needs to be repeated again and again, because we have pretended that it was the basis of American foreign policy vis-a-vis the United Nations. I want to make it not a pretense but a reality. That great Republican from Michigan, Arthur Vandenberg, chairman of the Foreign Relations Committee of the Senate, one of the architects of the San Francisco Charter, at one time the leading isolationist in the Senate, to become, in my opinion, the leading internationalist of this body, left us the tenet which I should like to leave with the Senate again today, as I close my remarks:

There is no hope for permanent peace in the world, until all the nations of the world, not just those we like but all the nations of the world are willing to set up a system of international justice through law to the procedures of which will be submitted each and every dispute that threatens the peace of the world, for final and binding determination, to be enforced by an international organization such as the United Nations.

I recommend this tenet for reappraisal, review, and reconsideration by the heads of my Government, the President, the Secretary of State, and the Secretary of Defense—and I suggest that Adlai Stevenson reconsider it also.

I suggest that Adlai Stevenson, as the American Ambassador to the United Nations, who owes a trust not only to the United States but also to the United Nations itself, proceed to do what he can to implement that great principle of American foreign policy, at least as a first step to return on the long road of retreat from statesmanship which he made yesterday, when he delivered that unfortunate, unfounded, and fallacious speech before the Security Council of the United Nations.

[Applause from the galleries.]

## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attor-

ney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. TALMADGE. Madam President, throughout all of Anglo-Saxon history, from ancient England to the present time, the people have come to learn that the right to a trial by jury is of the utmost importance to the preservation of their life, liberty, and property.

History shows that this was a hard-learned lesson, and that often, in order to assure themselves this right, the people were compelled to resort to rebellion and even bloodshed, and revolution against rulers who would oppress them and attempt to make them mere chattels of the government.

It is a difficult thing, and this we all know, to take the power to oppress away from government once it has been given this power. Governments always are hungry and thirsty for power, and once it is placed within its grasp, it is next to impossible to ever take it away. So it has been throughout all of history, and so it is today.

We have liberty and freedom in America. We owe it to the courage, foresight, and the wisdom of our forefathers. It is a rich heritage that we enjoy as have no other people in history.

We are a free people because our system of government is based upon the sound philosophy that all power of the Government is derived from the consent of the governed. In this country, the actions of the Government is determined by the will of the people. The will of the people is not bent to the will of the state as it is in totalitarianism and communistic government.

However, we must ever be vigilant to protect our rights and freedoms and not to take them for granted. For history also has shown that when the people are unwary and not careful about the power they bestow upon their government, they have found themselves entwined in the tentacles of oppression.

One of the most basic of all of the rights of the American people is the right of a trial by jury in our courts of law in all criminal prosecutions. Without this right, we would soon lose all that we hold dear. It is interesting to trace the Anglo-Saxon history of jury trials and it is especially noteworthy to see how this right evolved from ancient history, to Magna Carta, to the Declaration of Independence, to the Constitution, and to the present day.

And when we see how people have struggled and fought and died to secure the right to a trial by jury, it underscores the amazement which I feel in finding myself compelled to stand in this Senate today to speak in its behalf, to defend it and to urge it.

To my mind, it is not a debatable issue. It is as basic and fundamental a right as any to be found in the Constitution.

I now wish to read a history of jury trial, with particular emphasis on efforts

which have been made over the centuries to abrogate it, in the hope that the lessons of history will be heeded:

## TRIAL BY JURY: OUTLINE OF ORIGINS AND EFFORTS TO ABROGATE

## A. ENGLISH ORIGINS OF TRIAL BY JURY

Modern scholars agree that trial by jury as we know it today had its origins in medieval England in the first century and a half of Norman rule when William the Conqueror and his heirs sought to strengthen their hold upon the foreign land which they had conquered.

1. The Anglo-Saxon system of justice which William discovered in England at the time of the conquest had elements that foreshadowed the use of juries. The courts were presided over by a reeve (sheriff), and 12 senior thanes (lords) usually acted as the judges. According to a law of Ethelred (c. 981), they "swear on the relic that is given to them in hand, that they will accuse no innocent man, nor conceal any crime." The customary method of asserting innocence was for the accused to bring forward 12 compurgators, who would swear together on his sound character and good reputation. These two elements, combined with a reliance upon sworn witnesses and neighbors and upon openness in all dealings presented the legal background upon which the Normans built a formalized procedure.

2. The earliest clear use of the jury is found in the sworn inquest, originally a Frankish or perhaps even Roman practice whereby the ruler sent out his agents to question people throughout the kingdom on any matter of government or administration which interested him. William the Conqueror instructed his agents to summon a number of reliable, knowledgeable men in "every shire and hundred," put them on oath to tell the truth, and then ask about landholdings, property, previous tax assessments, and similar matters. These sworn inquests provided the material for the Domesday Book, which recorded the names and properties of all landholders. One of the most famous of these inquests was held during William's reign on Pennenden Heath where Lanfranc, Archbishop of Canterbury, reclaimed the lands which had been taken from the archbishopric by Williams' ruthless half brother, Odo of Bayeux. For 3 days all the important men of the county were heard, swearing that Lanfranc was the lawful holder of the lands in dispute.

3. The function of the jury as essentially a local factfinding board continued through the reign of Henry II in the inquest on sheriffs to inform the King about the conscientiousness of his representatives, and through the reign of Richard I in the assessment by local juries of the Saladin tithe of 1188, the first tax on income and personal property, needed to finance Richard's crusade.

4. The scope of the jury was greatly expanded by Henry II as a means of indicting those who had violated the King's peace by robbery, thievery, murder, arson, or counterfeiting. In these assizes, the itinerant justices were assigned definite schedules and areas in which they were to try in the King's name all men accused by their neighbors of these misdeeds. Henry II also initiated three new actions whereby the decision of a jury would determine whether anyone had been wrongfully ousted from possession (as distinct from title), and if so, would immediately reinstate him.

5. Thus the jury was originally developed not to give a verdict but to supply evidence on oath, as witnesses do today. Insofar as this evidence amounted to an indictment, the juries were parallel to modern grand juries. Until the 13th century, the indictment by jury was followed by a trial by ordeal, battle, or compurgation (in which the accused endeavored to produce as many men as pos-



1964

## CONGRESSIONAL RECORD — SENATE

11371

sible to swear to his innocence). Only as the men came to doubt the validity of ordeals, as the church refused to preside over the ordeals, which thus could not be said to reflect God's will, and as men became willing to accept the opinion of a second, deciding jury (which might contain the same personnel as the indicting jury), did trial by jury become universal. Ironically, however, all men were still thought to be entitled to God's verdict through ordeal rather than to be forced to rely upon a mere human decision, and trial by battle was not formally abolished in England until the 19th century.

6. Trial by jury was always a privilege offered only by the king in his courts. The feudal lords were not permitted to offer jury trials but were themselves the judges in their own courts. As a result, since many cases involved alleged malpractices by the lords, litigants relied more and more on the king's courts with their relatively impartial juries. This increased appeal to the royal courts, caused almost entirely by the innovation of jury trials, was perhaps the greatest single factor in the development of a strong central administration in England, an administration which, moreover, was never wholly dependent upon the feudal classes for its services nor ever wholly divorced from the middle classes who helped to administer its justice.

#### B. MAGNA CARTA AND TRIAL BY JURY

Clause 39 of Magna Carta provided: "No freeman shall be taken or [and] imprisoned or dissuised or exiled or in any way destroyed, nor will we go upon him, except by the lawful judgment of his peers or [and] by the law of the land." Modern scholars are agreed that this did not refer specifically to trial by jury at that time. Rather it was intended to put an end to rapacious King John's habit of taking hostages, levying exorbitant fines, and imprisoning nobles without even consulting his own council of barons. But both in its immediate effect and in its later interpretation, the clause did contribute to the idea that every man was entitled to a legal hearing before any penalty, detention, or dispossession.

Madam President, I wish to repeat that this provision of Magna Carta provided that no person shall be deprived of his freedom or property "except by lawful judgment of his peers, or by the law of the land."

Are we now to go back on Magna Carta? Are we to go back on our Constitution, in which in four instances, there is provided a jury trial in the prosecution of criminal cases? Are we to turn our backs upon so fundamental a right as that of trial by jury?

Madam President, this is precisely what we would be doing if we were to enact this force legislation which, in at least five of its titles, would permit honest, hard working, sincere, and law-abiding citizens to be hauled before a Federal tribunal by the Attorney General and summarily sent to jail without benefit of trial by jury, without having their guilt or innocence decided or passed upon by 12 men good and true from their own communities.

We cannot compromise this right by providing that some accused persons in some cases would be given a trial by jury if accused of criminal contempt of court under the harsh and punitive provision of this misnamed legislation.

Magna Carta provided that no man should suffer the loss of his freedom or

belongings without a trial by jury; and I am wholeheartedly in agreement with this principle.

Our Constitution declares, in article III, section 2, paragraph 3, in no uncertain terms, and in the clearest language possible, that "the trial of all crimes, except in cases of impeachment, shall be by jury."

Furthermore, to reenforce this provision, to insure it for our people for all time, the right to a trial by jury was provided for in the Bill of Rights.

In the sixth amendment we are told so that no one could mistake its meaning, that accused persons shall enjoy the right to a speedy and public trial in all criminal prosecutions; not some criminal prosecutions, Madam President, but all criminal prosecutions; not only where a person may be sentenced for more than a certain number of days or fined more than a given number of dollars, but "in all criminal prosecutions."

I continue reading:

#### C. ATTAINT OF JURORS AND STAR CHAMBER

1. The greatest threat to jury trial in the Middle Ages was the decreasing strength of the kings who controlled the royal justice. For whenever a weak king came to the throne, the feudal nobles did not hesitate to bribe or threaten jurors flagrantly. Many kings, often handicapped by the need of noble support for foreign wars, had not the power to check these mighty barons.

2. The process of attainr, originally devised to provide extra protection to the defendant, constituted one royal weapon against the corruption of justice. It was really an extension of the original concept of the jury as a panel of witnesses rather than judges. When the jury gave a verdict that seemed to contradict the known facts, the jurors themselves could be tried or attainted for perjury, convicted, and imprisoned. This practice, although originally intended to remedy abuses, lent itself very easily to further abuse, since the feudal lords were also able to attainr juries who decided against them. The result was that jurors occupied a very precarious position and that litigation often dragged on for as much as half a century. Actions for attainr were not finally prohibited until the famous Bushell case of 1670 when a judge attempted to imprison a whole jury for a verdict with which he disagreed. By that time, juries were clearly recognized as decisionmaking rather than evidence-giving bodies, and therefore the charge of perjury was no longer applicable. Actually with the coming of the strong Tudor and Stuart governments the lengthy process of attainr had fallen into disuse.

3. The Tudor and Stuart method of insuring fair juries was more direct, but perhaps also more repugnant to our own ideas of justice. The court of the star chamber which had gradually developed from the king's privy council and was comprised of certain privy councillors, bishops, and judges, was in 1487 given specific jurisdiction to hear and settle in closed session any disputes, legal, judicial, administrative, in which the interest of the king was involved.

Mr. LONG of Louisiana. Madam President, will the Senator yield?

Mr. TALMADGE. I yield.

Mr. LONG of Louisiana. Does the Senator's research on the subject indicate that the organization of the star chamber actually had a good and worthy purpose when it first started?

Mr. TALMADGE. The Senator is entirely correct. It was an improvement over the then existing system. But as the Senator is well aware the star chamber itself became very corrupt. Charles I, I believe it was, later lost his head because of the star chamber trials.

Mr. LONG of Louisiana. Is that not one more example of how the theory that "The end justifies the means" can go astray and do great harm by starting with a meritorious purpose, but with a method which denies people their fundamental freedoms, with the result that in the end it is a very horrible thing, practically a Frankenstein monster?

Mr. TALMADGE. The Senator is correct. The star chamber proceedings started out to correct abuses that then existed in England. But they became so horribly corrupt that the people rebelled, Charles the First lost his head, and the star chamber procedure was abolished.

Mr. LONG of Louisiana. Can the Senator tell me whether the star chamber trials were those in which the great liar, Titus Oates, would testify as a professional witness?

Mr. TALMADGE. I believe that was illustrated in my research.

Mr. LONG of Louisiana. Were the star chamber proceedings those in which a man did not have an opportunity to confront and cross-examine his accuser, or the witnesses who were called to testify against him?

Mr. TALMADGE. The Senator is entirely correct. That is the weakness of any system that does not have the protection of the devices that our forefathers devised—that is, indictment by a grand jury, the opportunity to cross-examine witnesses, to have a jury trial, to be represented by counsel, and all of the protections that have developed throughout history as being vitally necessary to insure a fair trial for the accused and to preserve liberty for all our people.

Mr. LONG of Louisiana. Does the Senator recognize the fact that under the terms of the bill, the Attorney General would be given the power not only to dispense with the jury trial—if the judge would go along with him—but he would also have the ability to have the case tried before a judge whom he, as a practical matter, had recommended for the Federal bench, and who perhaps hoped to obtain a promotion by means of the recommendation of the same Attorney General. Is it not true that the Attorney General would also have the power, in the event he thought that judge would not decide in his favor, to bring in two additional judges?

Mr. TALMADGE. The Senator is correct. The Senator has placed his finger on the weakness of the whole situation. Under the revised amendments that have been discovered somewhere by the ad hoc, unknown committee, and which have been circulating around the Chamber—from no Senate committee, incidentally—the Attorney General would even be authorized to determine in what areas of the country, in what cities, or in what towns certain laws would be ap-

pliable before bringing the defendants to trial before the judges he had appointed.

Mr. LONG of Louisiana. Is the Senator aware of the fact that it is in the fifth circuit that the bill is hoped to have its greatest impact?

Mr. TALMADGE. The Senator is correct.

Mr. LONG of Louisiana. Is the Senator aware that the presiding judge in the fifth circuit has had a way of being appointed on the three-judge courts when they prefer two judges who have a way of deciding against white people in certain cases?

Mr. TALMADGE. If the Attorney General wants to carry it a step further, he can select the stacked judges under all conditions.

Mr. LONG of Louisiana. Would it not be fair to say that when he asked for a three-judge court, it would be known what two judges he wanted to select for the three-judge court?

Mr. TALMADGE. That is correct. He would want to select judges who he knew had preconceived notions.

Mr. LONG of Louisiana. Would it not be fair to say that the effect of the bill would be that in the event the case were to be tried before a judge who had the respect of the community, the Attorney General would want to be sure that he could bring in two additional judges who might be despised by the same community?

Mr. TALMADGE. The Senator has stated it correctly. A year or two ago, a judge from North Dakota was brought to Arkansas to try a case.

Mr. LONG of Louisiana. That was before they got John Minor Wisdom, and others of his caliber.

Mr. TALMADGE. That is correct. They try to deprive the defendants of a trial by jury, and then they permit the Attorney General to stack the court as he sees fit by going all over the country to select judges whom he prefers. I thank the Senator for his colloquy and for his penetrating questions, which have helped to demonstrate the evil that would destroy the freedom of all citizens in the country, whoever they are, wherever they may reside.

Mr. LONG of Louisiana. Would it not be fair to say that the result of this provision would be not only to deny a man the right to be tried before a jury, which the Constitution seeks to give him, but also to guarantee to the Justice Department that it can obtain two prejudiced judges to hold against the defendant?

Mr. TALMADGE. The Senator is correct. The entire proposal is devised on a "heads I win, tails you lose" basis. It was drafted with that end in view.

Mr. LONG of Louisiana. I thank the Senator.

Mr. TALMADGE. I continue to read from the history of jury trial:

Originally the Star Chamber performed a useful task, settling disputes between and punishing important barons who might otherwise have escaped through common law loopholes, looking into cases of alleged jury corruption, handling many administration matters equitably and efficiently, and in gen-

eral reinforcing rather than competing with the other branches of royal justice.

4. But, as with many other institutions founded in the best of faith and very well equipped to handle certain immediate problems, the star chamber tried to extend its potentially unlimited power into fields where it should never have gone. Under Charles I the bishops on the court undertook to punish religious writers with whom they differed, to try to enforce a censorship on all printed matter, and to mete out cruel and unusual punishments for minor political offenses. The Star Chamber had clearly outlived its usefulness as a method of controlling rebellious barons and was becoming an instrument for religious and political persecution. The star chamber with its denial of the trial by jury which Englishmen had come to feel was their right constituted one of the main grievances against Charles I, and was an important element in his fall. One of the first acts of the Parliamentary Party after it had gained the upper hand was to abolish the star chamber in 1641, and to assert the right of every Englishman to a fair and open judgment by his peers.

5. Nevertheless, unscrupulous judges continued to use the threat of attainder and fines against jurors with whose verdicts they disagreed. In the famous trial of William Penn, the Quaker, in 1670, the judge and court officials threatened the jurors with starvation, fines, and other punishments if they did not declare the defendant guilty of speaking at an unlawful (that is, Quaker) meeting. When the jury absolutely refused to alter their verdict, the judge had them all taken to Newgate prison, where they remained until the court of common pleas declared their commitment illegal.

6. Another instance of the power which judges could wield over juries fearing punishment themselves is shown by the bloody circuit of Judge Jeffreys in 1688. Jeffreys headed an ecclesiastical commission which set out to punish all nonconformist sympathizers of Monmouth's rebellion. He browbeat and threatened juries ruthlessly, with the result that over 300 people were killed and over 800 sold into slavery. This abuse of the right to a fair jury trial was an important contributory cause of the glorious revolution, which deposed James and his heirs from the throne forever.

#### D. TRIAL BY JURY IN ENGLAND DURING THE FRENCH WARS

During and after the French Revolution a panicked fear of revolutionary elements led to repressive censorship and severe curtailment of civil liberties in England. But fortunately there were also men like Charles James Fox who continued to place faith in the people and who eventually won several important victories for the principle of trial by jury.

1. In 1793 Parliament passed an act suspending habeas corpus for a year in certain cases. This act, renewed several times, abrogated the ancient privilege conferred by the writ, and therefore in effect denied the accused the right to a jury trial before detention. Although most of the upper classes accepted this as necessary protection against revolutionaries, Charles James Fox never ceased to protest this invasion of civil liberties and the denial of trial by jury. Fox himself was expelled from the Privy Council in 1798 for proposing the toast "Our sovereign—the people." But within a decade, the crisis abated, his words were heeded, and habeas corpus and the right to trial by jury were restored, never again to be suspended in England.

Mr. SPARKMAN. Mr. President, will the Senator from Georgia yield to me for a question?

The PRESIDING OFFICER (Mr. WALTERS in the chair). Does the Senator from Georgia yield to the Senator from Alabama?

Mr. TALMADGE. I am delighted to yield to the distinguished Senator from Alabama for a question.

Mr. SPARKMAN. First, I commend the Senator from Georgia for his continuing and very able, clear, and lucid defense of the right of trial by jury.

Mr. TALMADGE. I thank the distinguished Senator from Alabama. I return the compliment, because he has made some of the most magnificent speeches it has been my pleasure to hear since I have been a Member of the Senate. I compliment him heartily.

Mr. SPARKMAN. I thank the Senator from Georgia.

By the way, I used the phrase "defense of the right of trial by jury." Did the Senator from Georgia ever believe he would be called upon to defend that right?

Mr. TALMADGE. Even before I entered law school, I used to go to court, occasionally, to watch my father try cases. Then I entered the University of Georgia, and studied civics and history; and later I entered law school. I learned that the greatest right free men and women have is the right of trial by jury. It took bloody revolutions and sacrifices over hundreds of years to achieve this greatest of human rights. I never dreamed that at this late hour, in the year 1964, almost 1,000 years after Magna Carta, and almost 200 years after the Declaration of Independence and the Constitution of the United States, I would be standing on the floor of the U.S. Senate and would be defending and speaking to protect and preserve the right of the 190 million American people to trial by jury.

Mr. SPARKMAN. And pleading with other Senators of the United States to vote to preserve the right of trial by jury?

Mr. TALMADGE. The Senator from Alabama is correct.

How Senators could ever read the history of the right of trial by jury and the history of the Star Chamber trials and the history of Judge Jeffreys, and the history of similar developments, and then say the jury trial system is antiquated and that we need to strike it down and end the right of trial by jury, and that our forebears were all wrong, and that now we should turn the fate of our people over to handpicked judges appointed for life, not elected by the people, and let them determine all these things, is more than I can understand.

Mr. SPARKMAN. And not even have the cases tried by the judges regularly assigned to the areas where the cases arise.

Mr. TALMADGE. Oh, yes. The Attorney General would be authorized to "stack the deck."

Mr. SPARKMAN. And to assign to the cases the judges he picked.

Mr. TALMADGE. Yes.

Mr. SPARKMAN. By the way, under the amendment of the Senator from Georgia which calls for the right of trial by jury, his amendment would be com-



1964

## CONGRESSIONAL RECORD — SENATE

11373

plete, and would not necessitate any addition whatever, would it?

Mr. TALMADGE. That is correct. The amendment would apply to all criminal cases of every kind and character.

I point out that an identical amendment was adopted by the Senate in 1957, by a vote of 51 to 42. One of the co-authors of the amendments at that time was the late, martyred President John F. Kennedy. Another coauthor at that time was the distinguished majority leader of the U.S. Senate, the Senator from Montana [Mr. MANSFIELD]. Furthermore, the concluding speech made at that time on the floor of the Senate was made by the then distinguished majority leader of the Senate, Lyndon B. Johnson, now President of the United States.

Mr. SPARKMAN. By the way, that speech was in favor of the amendment, was it not?

Mr. TALMADGE. Indeed it was.

Furthermore, I point out that the Senator from Alabama and I are now standing for exactly what John F. Kennedy, Mike Mansfield, and Lyndon B. Johnson stood for in 1957.

Mr. SPARKMAN. The Senator from Georgia submitted his amendment about 4 weeks ago, did he not?

Mr. TALMADGE. Yes, it was at about that time.

Mr. SPARKMAN. Since then, we have been served with notice—that is all, so far—that a brand new bill will be put before us, probably some time next week. I have not counted the amendments, but I understand there are more than 70 amendments.

Mr. TALMADGE. I am sure the Senator's source of information is the same as mine. We read it in the press, and we hear rumors about it; and then we hear over the airwaves that this mysterious committee, which is unknown to the Senate, is going to bring in a bill, and that "that will be it" and that we will be gagged, and will have to knuckle under, and will have to take what that committee says.

Mr. SPARKMAN. The Senator has seen what purports to be the first draft of that bill, has he not?

Mr. TALMADGE. I have seen a memorandum that came to my desk. It was signed by a Senator, but it did not have the imprint of any legislative committee. It was not accompanied by any committee report. There was no explanation of it. It was not even on official paper. It came into my office in some way. Whether it blew in the window, whether a page brought it in, whether it came through the mail, or whether it fell out of the trashbasket, the Senator from Georgia has no way of knowing.

Mr. SPARKMAN. There was no name attached to it?

Mr. TALMADGE. There was a name attached to the piece of paper on the memorandum document, but there was no information attached to that.

Mr. SPARKMAN. On the document itself.

Mr. TALMADGE. There was no pride of authorship. No one claimed credit for it. It was a founding. From whence it cometh no one knoweth.

Mr. SPARKMAN. What is that old saying about our friend the mule? "No pride of ancestry, no hope of posterity."

Mr. TALMADGE. The Senator is correct—"No pride of ancestry and no hope of posterity." Perhaps the document comes in that category. However, I wish to defend the mule. In my more youthful days I used to plow with a mule from time to time.

Mr. SPARKMAN. So did I. I rode the mule.

Mr. TALMADGE. It was a part of the economy of Georgia, Alabama, and much of our Nation. The worthy mule kept a good many of us from starving to death. I would not want the mule to be placed in the same category with this other founding about which I have spoken.

Mr. SPARKMAN. I should like to say something else about the mule, because I join the Senator in paying high compliment to the mule. As the Senator said, the mule has meant a good deal to the economy of our country—not only our section of the United States, but also the entire Nation.

Mr. TALMADGE. The Nation and the world, for that matter.

Mr. SPARKMAN. I remember as a boy hearing people say, when they talked about putting out one's utmost and doing one's best, "I will do my best, and that is all a mule can do."

Mr. TALMADGE. That is correct.

Mr. SPARKMAN. That was a pretty good compliment to the mule, was it not?

Mr. TALMADGE. That is entirely correct. I agree.

Mr. SPARKMAN. We were speaking about the rumored report that has been going around that we shall be served with a bill sometime next week, or perhaps not until after the California primary. Is it not rather strange that activities in faraway places affect the actions of the Senate?

Mr. TALMADGE. It is unthinkable to me that the Senate of the United States should even consider primaries in dealing with legislative subjects.

Mr. SPARKMAN. But the Senator has heard that rumor.

Mr. TALMADGE. I have heard the rumor. In fact, I read it in the press.

Mr. SPARKMAN. We have heard it over the radio.

Mr. TALMADGE. That is true.

Mr. SPARKMAN. The proponents of the measure talk about cloture and related subjects, but they say that there will be no move on the bill until after the California primary.

Mr. TALMADGE. Yes; I have seen such a report in the press several times.

Mr. SPARKMAN. I am not so sure that the proponents will offer that large package of amendments, which must be almost a half-inch thick—

Mr. TALMADGE. I have heard rumors that there were 70 amendments.

Mr. SPARKMAN. More than 70.

Mr. TALMADGE. I do not know that anyone has counted them. No one has reported exactly what they are. But I am sure that it will require considerable time to analyze in detail the contents of those amendments. For example, I understand that one of those amendments

would authorize the Attorney General to determine at his own pleasure what laws of the Government would be applicable in certain areas of the country. He could say that a particular law would be applicable in a certain parish in Louisiana and would not be applicable in another parish in Louisiana, or that it would be applicable in Idaho, but not in Georgia.

Mr. SPARKMAN. Would it not be the other way around? Would it not be applicable in Georgia but not in Idaho?

Mr. TALMADGE. Very likely. I am talking about the discretion which would lie in the hands, the bosom, and the heart of the Attorney General.

Mr. SPARKMAN. The Senator knows as a matter of general information how it would operate.

Mr. TALMADGE. I have an idea, but the Senator from Georgia has always been under the impression that laws were made to affect all people at all times and in all places.

Mr. SPARKMAN. The Senator from Georgia does not make that statement about the pending bill.

Mr. TALMADGE. No; of course not.

Mr. SPARKMAN. I am talking about the bill. Does the Senator know of anything in the purported amendments, the rumored bill, that would change in any way the original provision with reference to trial by jury?

Mr. TALMADGE. Indeed not. All that I have been able to hear about the purported new bill is to the opposite effect. It would draw the noose even tighter. It would authorize the Attorney General to select his courts at will and to determine in what counties, parishes, and State the bill would be applicable, and in what areas it would not be applicable. Complete dictatorial powers would be vested in the Attorney General of the United States.

Mr. SPARKMAN. During the Senator's legislative career, either in the Congress or in his State, has he ever encountered legislation so discriminatory as the measure before the Senate?

Mr. TALMADGE. I never have, in all the history of our great Republic.

Mr. SPARKMAN. That point leads me to another subject. We must turn to newspaper reports to determine what the new bill, or the 70 amendments, would do.

Mr. TALMADGE. We must obtain our information from the newspapers or the airwaves, or some rumor that we pick up from someone who has received information from other sources.

Mr. SPARKMAN. Three days ago I was attracted by an article that appeared in the Washington Evening Star under the byline of J. A. O'Leary. The title of the article was "New Rights Bill Accord." Who accorded to it?

Mr. TALMADGE. The Senator from Georgia was not even invited to the meeting. He had no knowledge that any meeting was even occurring. He heard of no witnesses being invited. He knew of no testimony that was offered. There was no opportunity to cross-examine anyone. So far as the Senator from Georgia knows, the proponents might have met at a fortune teller's home and had her pass judgment on the document.

Mr. SPARKMAN. In any event, the Senator from Georgia is not privy to their meeting or to their counsel.

Mr. TALMADGE. The Senator from Georgia was kept in deep darkness about the whole subject; and, so far as I know, virtually every other Member of the Senate was also.

Mr. SPARKMAN. I should like to read the headline which I started to read: "New Rights Bill Accord Bans Busing of Pupils." Of course, we know that in the original bill the busing of pupils was banned.

Mr. TALMADGE. No; in the original bill the busing of pupils was not banned.

Mr. SPARKMAN. It was not banned, but it was not required.

Mr. TALMADGE. Yes.

Mr. SPARKMAN. It was not required. There was a provision in the bill specifically exempting the busing of pupils as a requirement.

Mr. TALMADGE. The Senator from Alabama has reached the second step of the evolution.

Mr. SPARKMAN. I did not mean in the original bill which was presented to the House, but I meant the bill as it came to the Senate.

Mr. TALMADGE. The bill authorized the hauling of schoolchildren to wherever they could be carried to achieve the greatest mixing effect.

Mr. SPARKMAN. The Senator is correct on that point. I meant the original bill so far as we in the Senate are concerned.

Mr. TALMADGE. Then there was rebellion from certain areas of the country.

Mr. SPARKMAN. Including Westchester County. The Senator knows where that is, does he not?

Mr. TALMADGE. Oh, yes, indeed. There was rebellion in certain areas of the country.

Mr. SPARKMAN. There is no integration in Westchester County, N.Y..

Mr. TALMADGE. When the question arose, the provision was stricken from the bill on the floor of the House. Now the bill has come to us as a document designed to attain the maximum degree of mixing in southern areas and a minimum degree of mixing in other areas.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. SPARKMAN. Will the Senator permit me to conclude?

Mr. TALMADGE. I yield to the Senator from Alabama until he concludes his colloquy.

Mr. SPARKMAN. The Civil Rights Commission is my authority for the statement which I am about to make. I call to the attention of the distinguished Senator from Illinois that the Civil Rights Commission, which the Senator has supported so well, pointed out that the most highly segregated city in the United States is Chicago.

Mr. DOUGLAS. Mr. President, will the Senator yield so that I may reply?

Mr. TALMADGE. Mr. President, I shall yield in a moment.

Mr. SPARKMAN. They get by, by saying that the segregation is not de jure but is de facto. The segregation exists just the same, and the bill makes certain that that segregation will not be interfered with. But I wish to call to

the Senator's attention the new proposed amendments.

Mr. DOUGLAS. Mr. President, since the name of my city has been called in question—

Mr. TALMADGE. Mr. President, I ask unanimous consent that I may yield at this point without affecting my rights in any way whatsoever to the floor briefly to the Senator from Illinois for a reply.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOUGLAS. I thank the Senator from Georgia.

First let me say, on the question of voting rights, that Negroes have equal voting rights, and that is the practice in the city of Chicago. I wish they had this right in Alabama, in Georgia, and in other cities and States of the South.

Second, they have the legal right to attend schools which are mainly attended by whites; and a considerable number of the schools of the city are in fact desegregated.

It is true that schools are in the main constructed on neighborhood patterns, so young children will not have too far to walk to and from school. It is true that residences tend to be concentrated, but not entirely so, with Negroes in one section of the city and whites in another section, and that this of necessity results in a considerable number of schools which are, as the Senator from Alabama has said, de facto segregated.

In the first place, this is not as bad as though they were legally segregated. In the second place, we in Chicago are trying to achieve a greater degree of actual desegregation.

A report has just been brought in by a committee headed by Prof. Philip Hauser, recommending that the school districts be enlarged so that they will include white neighborhoods as well as colored neighborhoods, and that in the elementary schools students be transported to the schools of their choice, at public expense, and that freedom of choice be given over the entire city so far as high schools are concerned, but that here each student would have to transport himself at his or his family's expense.

I read in this morning's Chicago newspapers that a committee of 20 has been established as recommended by the Hauser report to implement these recommendations and carry them out.

So we are trying in a positive way to overcome de facto segregation.

A third and very important feature of the bill relates to public accommodations, under title II. We have had in Illinois a State public accommodations law since 1885, which has been progressively amended and strengthened many times since then, and never with a backward step, always with a forward step. It includes not only the categories listed in the pending bill, but barbershops and a number of other categories which are not included in the pending bill.

There is no segregation so far as parks, playgrounds, and swimming beaches are concerned. Formerly there was de facto segregation on the swimming beaches, but that is not true now.

Finally, so far as a fair employment

practices law is concerned, 2 years ago the State passed a State fair employment practices act. The city of Chicago had passed a fair employment practices ordinance years before that, and we are seeking to enforce it. The scope of coverage is the same as that in the proposed Federal act—ultimately a coverage of all firms with more than 25 workers.

We have many problems in the North, and we are certainly not perfect in the way we handle these issues. I wish to make that clear. We appreciate the greater problems which our friends in the South face, because they inherited the evil system of slavery, which we were fortunately spared, not necessarily because of superior character—

Mr. SPARKMAN. Because those in the North sold them to the South.

Mr. DOUGLAS. But because of facts of geography and climate. Those in the South unfortunately have been cursed with the results of the slavery system.

The point is that we are trying to improve. We have already gone a long way. We would like to see those in the South catch up with us. We will also go ahead more than we have.

Mr. TALMADGE. Would the Senator support an amendment to restore to the bill what it originally had in it—namely, a provision to provide for the busing of students in order to achieve perfect racial balance?

Mr. DOUGLAS. I do not think it was ever in the bill.

Mr. TALMADGE. It was, when it came to the floor of the House.

Mr. DOUGLAS. No. What happened in the House was that there was inserted in the bill a provision to the effect that the bill did not deal with racial imbalance inside a city. This is a matter for local and State action; and we are willing to let that question be decided locally. I do not think this is a matter for national legislation, because I do not personally think we should abolish the system of neighborhood schools; but I think we can broaden our neighborhoods.

Mr. TALMADGE. Was the Senator's answer in the negative or in the affirmative? Would he support such an amendment?

Mr. DOUGLAS. I do not think it would be appropriate to offer such an amendment.

Mr. TALMADGE. Is the Senator's answer in the affirmative or the negative?

Mr. DOUGLAS. I will wait until such an amendment is offered, but I am surprised that the Senator from Georgia, who claims to be such an apostle of States rights, should invade not only State but local and city rights. This is centralization gone mad.

Mr. TALMADGE. The Senator from Georgia is defending States rights, but the Senator from Illinois is now defending his own pattern of segregation.

Mr. DOUGLAS. No.

Mr. TALMADGE. I am asking the Senator if he would support an amendment to achieve perfect racial balance in Chicago; and the Senator will not answer my question.

Mr. DOUGLAS. I am supporting the Hauser plan for the city of Chicago, which provides for the widening of school districts and a much greater degree of



1964

## CONGRESSIONAL RECORD — SENATE

11375

desegregation in the schools, so that neighborhood schools would serve broader neighborhoods, so that both Negroes and whites, to a greater degree, could go to those schools than at present. Will the South accept the House plan?

The statistical study which has been presented shows that there are a very large number of desegregated schools now. It so happens that my own area—Hyde Park Kenwood—is a desegregated neighborhood. We get along together very well. Our schools are desegregated, approximately 50 percent Negro and 50 percent white.

Would that the city of Atlanta and the city of Birmingham would do likewise.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. TALMADGE. I desire first to respond to the Senator from Illinois.

Mr. DOUGLAS. And the city of New Orleans.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield to the Senator from Louisiana.

Mr. LONG of Louisiana. The statistics for the year 1960, which are the latest figures I have been able to obtain, show that unemployment among the whites in Illinois is 3.8 percent—less than 4 percent—while among the Negroes it is 11.5 percent.

Is it not hypocrisy to say that the Congress should enact a law in order to provide employment for Negroes, and end with unemployment among the Negroes three times as much as unemployment among the whites?

Mr. TALMADGE. We in Georgia would not want to wish that curse on Illinois if the situation were reversed.

Mr. LONG of Louisiana. These figures are based on the statistics. Consider the figures for Michigan. Unemployment among the whites is 6 percent, while it is 16.3 percent among the Negroes.

Look at the figures for Pennsylvania. For the whites unemployment is 5.8 percent, and for the Negroes it is 11.3 percent.

The ratio of Negro unemployment is 107 percent greater in the North, in the FEPC States, than it is in the South.

Would enactment of such a law as is proposed be the way to get a poor man a job?

Mr. TALMADGE. I do not believe so. I think it is the way to deny a man a job.

Mr. SPARKMAN. Mr. President, will the Senator yield at this point for a moment?

Mr. TALMADGE. I yield.

Mr. SPARKMAN. The Senator from Illinois said that segregation in Chicago was not legal. I suppose he means, it is not required by law.

Mr. DOUGLAS. Yes.

Mr. SPARKMAN. The Senator might be interested to know that Alabama has not had a single law requiring segregation in years.

Mr. DOUGLAS. It is enforced by the shotgun and by other methods as well.

Mr. SPARKMAN. The Senator was talking about Chicago and saying that segregation is de facto. In Alabama it is de facto.

Mr. DOUGLAS. I never thought the schools of Birmingham were desegregated.

Mr. SPARKMAN. It is not required. Furthermore, the reason the Senator has this integrated school in his neighborhood is that currently Negroes and whites live there together as they do in the South. We do not have great ghetto areas like those in Harlem, Chicago, Pittsburgh, Cleveland, Detroit, Philadelphia—almost any city one could wish to name.

The proponents were not content with the bill as it was originally presented to the House, not content even as it was amended in the House. A new amendment has been submitted, according to the press. I do not know this to be true, but it is quoted here. This is what it says regarding the transportation of students by bus. It does not say, "nothing in here shall be construed to require it." It provides:

Provided that nothing herein shall empower any court of the United States to issue any order seeking to achieve a racial balance in any school by the transportation of pupils or students from one school to another, or from one school district to another, in order to achieve such racial balance or otherwise enlarge the existing power of the court to insure compliance with the constitutional standards.

Mr. TALMADGE. They went a long way to prohibit anyone to make a ruling like that, but as the Senator from Alabama knows, he and I have been watching the situation, looking at photographs, reading articles in the press, and watching television. There have been gigantic school strikes in New York City, Philadelphia, Cleveland, and Chicago, in order to achieve racial integration. Now a bill is brought in, the purpose of which is alleged to be to end discrimination which prohibits the opportunity to achieve a pure racial balance, if desired, in Chicago, in Cleveland, in New York, and other areas.

Mr. DOUGLAS. Just a moment—

Mr. TALMADGE. This might cause considerable consternation in many circles.

Mr. DOUGLAS. As a good Democrat, may I be allowed to participate in this discussion?

Mr. SPARKMAN. Is it not true that the language I have read even restrains—

Mr. TALMADGE. It dares the judge to even consider the question.

Mr. SPARKMAN. It takes it away from the courts.

Mr. TALMADGE. It dares the judge to enforce the order. It dares him to consider it.

Mr. SPARKMAN. Yes—to carry out constitutional standards.

Mr. TALMADGE. That is entirely correct. The Senator has pointed out a weakness in the particular measure.

Does the Senator from Alabama desire to ask a further question? If not, I shall yield at this time—

Mr. DOUGLAS. May I be heard?

Mr. SPARKMAN. If I may ask one further question, then I shall cease and desist.

Mr. DOUGLAS. I do not wish the

Senator to do that. I do not wish him to leave the Chamber.

Mr. SPARKMAN. I was captivated by this quotation in the press of several days ago.

Mr. TALMADGE. It intrigued me, too. In fact, I never heard of that particular measure being retained in any act. It almost threatens any judge with impeachment if he dares to even consider a matter of this kind.

Mr. SPARKMAN. It is a great arm of the Congress, saying that the State could—

Mr. TALMADGE. The only power to remove a Federal judge would be through the U.S. Senate.

Mr. SPARKMAN. The Senator is correct. That would be the only way to do it constitutionally.

Mr. TALMADGE. That language points a finger at the judge and says, "If you dare even to consider such an issue as this, the Senate will 'defrock' you." That is the meaning of it.

Mr. SPARKMAN. The Senator is correct. The Senator also knows that many of us have thought from time to time that some restraints should be placed upon the courts.

Mr. TALMADGE. But that is not the proper way to go about it.

Mr. SPARKMAN. There should be a dividing line between the legislative and the judicial branches. We know that from the Constitution.

Mr. DOUGLAS. May I be permitted to get into this game of table tennis that is now going on?

Mr. SPARKMAN. An attempt is being made to tell the Supreme Court what it cannot do. This is aimed not only at the Supreme Court, but all the courts of the United States.

Mr. TALMADGE. All courts, and in the most brusque possible language—almost rude.

Mr. SPARKMAN. It is said, "Do not do it. Do not do anything otherwise than what is provided for under constitutional standards." Can anyone top that?

Mr. TALMADGE. The Senator from Alabama has put his finger on a very weak point.

Mr. SPARKMAN. Let me mention another point—

Mr. DOUGLAS. May I not be permitted to get into this game of shuttlecock? Apparently it is going to continue interminably. May not this hapless Senator be permitted to make a few comments?

Mr. SPARKMAN. I assure the Senator from Illinois—one day I mistakenly called him "the Senator from Chicago."

Mr. DOUGLAS. I am very proud to come from Chicago. I frequently refer to my good friend the Senator from Alabama as "the Senator from Huntsville."

Mr. SPARKMAN. I am proud of it. I am proud to come from Huntsville. Huntsville is my hometown.

Mr. TALMADGE. The Senator from Alabama has done a great deal of good work in Huntsville. I am sure that he is proud of Huntsville, as I am sure Huntsville is proud of him.

Mr. SPARKMAN. Huntsville orbited the first satellite the free world ever built—let us not forget that. It has played a great part in orbiting every

other satellite since that time. But I am moving somewhat away from my subject now.

Mr. DOUGLAS. This seems like a movable time.

Mr. SPARKMAN. This is what I tried to move to a while ago when the Senator insisted on referring to shuttlecock, was it?

Mr. DOUGLAS. Battledore and shuttlecock.

Mr. SPARKMAN. I was intrigued by the quotation which I read in the newspaper some time ago. This is what we are talking about, in connection with the proposed civil rights bill. That was H.R. 7152, but I do not know what it will be if it has added to it several extra pounds of amendments—more than 70 of them; but this is what the speaker said:

But neither this law nor any law can be a solution. We must recognize that law can only provide orderly ground rules. It cannot play the game. It is easy for us in the North to patronize the South. It is so very much easier to see the morality of problems in Birmingham when you are sitting in Boston.

I might insert there, "Chicago," but the speaker said "Boston."

Whatever law is debated, whatever statute is enacted without public understanding—

Mr. TALMADGE. I certainly agree with that.

Mr. SPARKMAN. Does the Senator know who said that? This was in a speech made by the Attorney General of the United States.

Mr. TALMADGE. I would agree with the Attorney General's comments at that time, and I would urge him to read and reread that same statement morning, noon, and evening.

Mr. SPARKMAN. I could continue indefinitely. I have enjoyed this colloquy very much. I would appreciate it if the Senator would allow my friend the distinguished Senator from Illinois to enter into this colloquy, inasmuch as I promised him that I would cease and desist.

Mr. TALMADGE. I appreciate very much the comments, the colloquy, and the words of wisdom of the distinguished and able Senator from Alabama. I agree with his conclusions wholeheartedly.

I am now glad to yield to the distinguished Senator from Illinois [Mr. DOUGLAS].

Mr. DOUGLAS. I thank the Senator from Georgia. I am truly surprised that such able attorneys as the Senator from Georgia and the Senator from Alabama should be so carried away by sectional standards as to ignore the plain meaning of the revised bill which will shortly be presented to this body and have misinterpreted the decisions of the Supreme Court. It is painful but necessary to—

Mr. TALMADGE. I did not know that we had referred to any decisions of the Supreme Court.

Mr. DOUGLAS. It is my painful but necessary duty to—

Mr. TALMADGE. To what decision is the Senator from Illinois referring? Could he give me a specific example?

Mr. DOUGLAS. The section on transportation of pupils by bus.

Mr. TALMADGE. We are not talking about Supreme Court decisions, we are talking about a law which the Congress of the United States will write.

Mr. DOUGLAS. The provision in the proposed new title IV, to which the Senator from Alabama has called attention, merely reaffirms in statutory form the language in a recent decision of the Supreme Court, stating that in the absence of legislation or in the absence of a municipal ordinance, it is not—

Mr. TALMADGE. What the Senator is talking about is legislation.

Mr. DOUGLAS. It is not a violation of the 14th amendment to refrain from transporting students by bus from one section of the city to another; in other words, the 14th amendment does not carry with it the right to compel transfer from one neighborhood school to another by means of city-furnished transportation.

If the Senator from Alabama and the Senator from Georgia have some regard for the language—

Mr. TALMADGE. Mr. President, will the Senator yield at that point?

Mr. DOUGLAS. I should like to read the language first.

Mr. TALMADGE. I should like to clear up that point before the Senator proceeds. The Senator from Georgia—and I feel certain the Senator from Alabama also—agree implicitly with what the Senator from Illinois is saying about the Supreme Court decision in the busing case. However, the Supreme Court has also said the same thing about public accommodations; yet the Senator from Illinois wants to ignore it. And at the same time he wants to hide behind the Supreme Court's decision, and keep his schools in Chicago segregated.

Mr. DOUGLAS. Does the Senator refer to the 1883 decision of the Supreme Court on the Federal public accommodations law of 1875?

Mr. TALMADGE. No; the decision of the Supreme Court in 1963. The Senator is a fine economist, but sometimes he is a little off base on his law.

Mr. DOUGLAS. There was a decision of the Supreme Court in 1883, declaring the Federal public accommodations law of 1875 to be unconstitutional.

Mr. TALMADGE. Yes.

Mr. DOUGLAS. But that has been long since reversed in the mind of the public.

Mr. TALMADGE. The Senator will find that the Howard Johnson decision, the one which originated in North Carolina, was passed upon by the Supreme Court as late as 1963. In that case the Court held that a private businessman had a right to select his customers. The Senator from Illinois wants to change that. He does not want to change the busing decision, but he wants to enact a law so there cannot be a pure mix of students in Chicago.

Mr. DOUGLAS. I should like to quote the passage in the proposed amendments which pertains to this point.

Mr. TALMADGE. I yield to the Senator for that purpose.

Mr. DOUGLAS. I thank the Senator. The passage reads:

Provided that nothing herein shall empower any court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards.

All this provides is that it is not proper to use the 14th amendment—to require the transportation of public school students from one school district to another in order to achieve a racial balance. That is precisely what the Supreme Court held in the recent case. I believe it was in the Gary case. This would permit States and localities to carry out this practice if they so desired.

Mr. TALMADGE. And Congress, if it so desired, by legislation.

Mr. DOUGLAS. We explicitly say that this is not our purpose. We would leave it up to the localities and the States for action. What we are trying to do is to have a minimum of Federal action and maximum of local action. But not to permit localities to violate the basic constitutional protections.

Mr. TALMADGE. That is what the Senator from Georgia desires. There is no difference between us in that respect, except that the Senator from Illinois wants to mix them in Georgia and segregate them in Illinois.

Mr. DOUGLAS. My friends from the South have never accepted the results of the Civil War. They have never accepted the 14th and 15th amendments to the Constitution as being part of our organic law.

Mr. TALMADGE. I have forgotten the Civil War. I hope the Senator from Illinois has forgotten it also. Sometimes I doubt it, because he fights it over and over again on the floor of the Senate, nearly every day.

Mr. DOUGLAS. I do not mean this to be a personal characterization of the Senator from Georgia. I simply refer to the section. As a result of the Civil War, the Nation decided that it would provide protection for all citizens against invasions, by the States of creatures of the States. In my judgment it must also do so against private persons who exercise State power. That is the constitutional basis for our proceeding under title IV. Public accommodations are something else again, because they involve the commerce clause as well as the 14th amendment.

I am becoming fed up with my dear friends for implying that we are hypocrites. We are not hypocrites. No one has ever heard from my lips any attack on the people of the South.

Mr. TALMADGE. I do not say the Senator from Illinois is a hypocrite. I have asked him if he would support an amendment to have a pure mix in the city of Chicago, and he would not give me an answer. He has not answered my question and he will not answer it.

Mr. DOUGLAS. I support the Hauser proposal. Will the Senator from Georgia pledge that he will support the Hauser plan for Atlanta and other cities of the South?

1964

## CONGRESSIONAL RECORD — SENATE

11377

Mr. TALMADGE. I have asked the Senator a question about a pure mix in Illinois. The Senator from Illinois will not answer my question. He has consistently refused to do it. The Senator from Georgia does not know why, but he will not accuse the Senator from Illinois for being a hypocrite for not answering.

Mr. DOUGLAS. That is not the issue in the bill. The Senator from Georgia is trying to bring in extraneous matters.

Mr. TALMADGE. The Senator from Illinois brought in the Civil War. I did not do so.

Mr. DOUGLAS. The Civil War is unfortunately still with us. Sometimes I wonder who won it. I sometimes wonder if we should not have the Confederate flag flying from the Capitol, when I look at the committee chairmanships in the Congress. Perhaps it was not necessary for Lee to take Washington after all.

Mr. TALMADGE. I deeply regret that the Senator from Illinois does not recognize that the War Between the States ended 99 years ago. I hope that the Senator from Illinois one of these days will know and realize that that war ended 99 years ago, and quit fighting it every day on the floor of the Senate.

Mr. DOUGLAS. The war has ended, but the duration has just begun.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield to the Senator from Louisiana.

Mr. LONG of Louisiana. I ask the Senator if he is aware of the fact that when the battleship *Missouri* sailed into Tokyo Bay—

Mr. TALMADGE. I was there on that day.

Mr. LONG of Louisiana. When the battleship *Missouri* sailed into Tokyo Bay to accept the surrender of the Japanese, a Confederate flag was flying from the mainmast. Perhaps the admiral did not know about it. However, it was indicative of the fact that southerners fought alongside with boys from all parts of the country, and even had a higher ratio of volunteers in the service of the country than any other section of the Nation.

Therefore I should like to say to the Senator that perhaps the South is the only part of the country which may have involuntarily become a part of the Nation. However, the South is not complaining about it. We have always proved ready to defend our great Nation.

Mr. TALMADGE. I agree with what the Senator from Louisiana has said. What he has said is true. The war ended in 1865. The Senator from Louisiana, being the able historian that he is, realizes that perhaps there never was such internecine bitterness and unhappiness as that which was the aftermath of the War Between the States. After the war the Southern States were occupied by invading armies.

State officials were dismissed from office. Military governors were appointed. The best citizens were disfranchised. The worst citizens were enfranchised. Graft and corruption and disaster were rampant everywhere for approximately 12 years.

There was no marshall economic program of any kind to help us. Our people almost starved to death. Never in the course of human history have a people been so completely subjugated and denied every aspect of human charity and dignity as was the people of the South.

Notwithstanding that fact, we were readmitted to the Union. We have made our contributions to the Union since that time. As the Senator from Louisiana is aware, southerners have fought valiantly in the war with Spain, in the First World War, in the Second World War, and again in the Korean war. Many of them are engaged in Vietnam right now.

We need not make any apologies for the South when it comes to questions of patriotism and loyalty to our country. I hope that every Member of the Senate will forget that unfortunate incident which happened almost 100 years ago. Unfortunately, the Senator from Illinois will not let a day go by without mentioning the War Between the States. Apparently what he wants to have is another military occupation of the South. The Senator from Louisiana and the Senator from Georgia are standing on the floor of the Senate trying to resist it. I hope the Senator from Illinois will desist.

I now yield to the Senator from Illinois.

Mr. DOUGLAS. Mr. President, does the Senator from Georgia believe that the very eminent southern columnist, Mr. William S. White, is an accurate observer of the psychology of the South and the country?

Mr. TALMADGE. I should say that the eminent columnist to which the Senator from Illinois has referred is a more accurate observer than the Senator from Illinois.

Mr. DOUGLAS. Does the Senator know that in his book entitled "The Citadel" the southerner, Mr. William S. White, says that "the Senate is the South's undying revenge for Appomattox"? Out of their own mouths discerning and ardent southerners say that. I think it is true.

Mr. TALMADGE. I hope that the Senator from Illinois will not try to emulate William Tecumseh Sherman, who visited Atlanta on one occasion, and burn down the city again.

Mr. DOUGLAS. There is a question as to who first set fire to Atlanta. It might have been the Atlantans first, before Sherman. There is quite a dispute on that point.

Mr. TALMADGE. There is no dispute in my area of the country.

Mr. DOUGLAS. Oh, no. You feel very certain there.

Mr. TALMADGE. I hope the Senator from Illinois will not try to detract from the great military reputation and the accomplishments of William Tecumseh Sherman. He is given full credit for burning down Atlanta, and almost starving our people to death. Sherman himself said, "War is hell." And I believe him.

Mr. DOUGLAS. He believed in total war.

Mr. TALMADGE. He was one of the first generals who practiced total war.

And he was very successful in his purpose. He broke the breadbasket of the South in his march through Georgia.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. DOUGLAS. Have we finished?

Mr. TALMADGE. If the Senator propounds another question, I shall be glad to answer it. The Senator from Louisiana was on his feet asking that I yield to him. I now yield to the Senator from Louisiana.

Mr. LONG of Louisiana. Not all southerners have to apologize. And not all southerners should be punished because the South fought the Civil War. One of this Senator's forebears went to the convention and voted against seceding from the Union. My father told me that my great-grandfather not only said that we should refuse to fight, and should free the slaves, but when the sheriff came after him, he hid under the logs in the woodshed and would not have anything to do with it.

I am frank to say that we could do much more for the Negroes if certain people would quit stirring the resentment of the whites against the Negroes, and of the Negroes against the whites. It sets back the cause of the colored man.

During the time that my uncle was Governor of Louisiana, the colored registrations increased by 1,000 percent. But that was prior to the Supreme Court decision in the Brown case, and prior to the civil rights action that was going to get them the right to vote. All of the Federal compulsion has so stirred resentment among whites that now in every parish there are people organized against it. If it were not for the resentment which has been aroused by the interference of the outsiders, and the strong arm of the Federal Government trying to make people do things that they resent, the Negro registration would have probably increased by 70 or 80 percent over what it is.

Mr. TALMADGE. I agree completely with the words of wisdom of the Senator from Louisiana. Of course, as the Senators know, he shares the view that most of us in the Senate have, and certainly the Senator from Georgia, that everyone is entitled to the respect which his merit, his character, and individual attainments entitle him to receive.

Every man ought to be treated in accordance with that fact, and that is the policy and the position of the Senator from Georgia. He knows many white people with whom he does not like to associate. He knows many Negroes that he does not like to associate with. There are probably some white people and Negroes who would not want to associate with the Senator from Georgia. That is their privilege. And I would defend their right to act accordingly. But man's relation to his fellow man is largely a matter of the heart, the mind, and the conscience. When Senators think they can pass coercive, jail-sentence, Federal legislation and say to a little barber, "You must shave this man, whether you like it or not; you must shine his shoes, whether you like it or not; you must live in a boarding house with him whether you like it or not; you must eat in an



eating place with him whether you like to or not," all such coercion as this can do is lead to discord, friction, and ill will.

I now yield to the Senator from Illinois.  
Mr. DOUGLAS. The Senator from Georgia is always very courteous.

Mr. TALMADGE. I thank the Senator. The feeling is mutual. I have had the privilege of serving with the Senator from Illinois on the Committee on Finance. I have never known a man whom I have enjoyed associating with to a greater degree than the able and distinguished Senator from Illinois.

Mr. DOUGLAS. I thank the Senator. I want to rise to a matter of personal privilege concerning the Senator from Virginia [Mr. ROBERTSON].

Mr. TALMADGE. Mr. President, I shall be delighted to yield if the Senator from Illinois desires me to do so. Mr. President, I ask unanimous consent that I may yield to the Senator from Illinois for a personal statement, without it affecting my rights to the floor in any way whatsoever, and without my subsequent remarks constituting a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOUGLAS made a personal statement, which will be found elsewhere, under an appropriate heading.)

Mr. TALMADGE. I return to my discussion of the history of jury trials in England:

2. Fox himself was responsible for the extension of the scope of jury trials in libel cases. Since the libel laws represented the principal restrictions upon freedom of speech in England, it had been customary for the judge in a libel case to decide himself whether a given publication was a libel and leave to the jury only the question of whether the accused had actually been responsible for its publication. Juries resented their inability to answer what usually was the most controversial question of the case, and in the case of the Dean of St. Asaph the jurors deliberately declared a man innocent of publication simply because they did not consider the material libelous. In 1792 Fox was responsible for a new libel law which extended the power of juries to decide the whole question, as to law as well as fact. In principle, it was a victory for democracy and trial by jury, although in practice the juries tended to be less tolerant in their interpretations of libel than the judges had been.

#### F. TRIAL BY JURY IN MODERN ENGLAND

Since the beginning of the 19th century, there has been no threat to the right of trial by jury in criminal cases. The grand or indicting jury was eliminated in some instances by the 1873 Judicature Act and almost entirely abolished by the 1933 Administration of Justice Act. In civil cases jury trial was no longer considered necessary as a rule, so that today less than 10 percent of civil cases in England are tried by jury. These changes, which came about during the 18th and 20th century judicial reforms, were made in the interests of economy, efficiency, and equity for all. On the whole, they have accomplished their purposes and have not been criticized. But the growth of so-called administrative law, that is, of legal decisions made by various boards or commissions upon disputes to which they themselves are a party, like income tax, community planning, and education, has led to widespread demands for a comprehensive administrative code, with more provision for appeals, and perhaps even some juries. Although nothing has yet been done, it is clear that the absence of jury trials in this ever-increasing area poses

many threats to property, if not actually to life and liberty.

#### F. TRIAL BY JURY IN COLONIAL AMERICA

Although the same conditions on the whole held in colonial America as in 18th century England with respect to the administration of justice and trial by jury, the attitude of the colonists was from the first different. Being in no position to fear feudal exactions or exploitations, the colonists looked upon the King not as their protector but rather as himself the potential aggressor upon their rights. It was in this spirit that they protested every effort to limit trial by jury as an act of royal tyranny.

1. In 1696 Parliament had reorganized the admiralty courts so that they would be better able to cope with the flagrant smuggling in and out of all the colonies which was the American reaction to the navigation acts. The admiralty courts, which were not a part of the traditional common law system, did not provide for trial by jury, and as a result English or English-appointed judges frequently sentenced colonial merchants and seamen arbitrarily. The more effective the courts became, the more the colonists resented them, and the more they came to insist upon trial by jury as a fundamental right.

Another way of putting this is that the more abusive and tyrannical the Admiralty Courts became, the more men desired the right to live and work in freedom. They felt the wrath of the English judges whose primary aim was to keep them under the heavy thumb of English rule. Without trial by jury. Persons accused of crimes against the Crown were tried powerless and at the mercy of a single judge who was the prosecutor, the judge, the jury, and the one who sentenced the defendant, all at the same time.

I would point out that in the so-called civil rights bill which is pending before the Senate, we have 55 pages, 11 different titles affecting every area of human relations from the cradle to the grave. The bill purports to regulate every hotel in America, every motel in America, every cafe in America, every hamburger stand in America, every hotdog stand in America, a high percentage of the barbershops in America, a high percentage of the shoeshine shops in America, and every place of business that has 25 or more employees.

It would extend the broad power of the Government of the United States into the most intimate of human relations. The bill would deny the right of a trial by jury. It would authorize the Attorney General to file suits at will against virtually any citizen in America in the name of the U.S. Government, at the expense of the taxpayers. And it would further authorize the Attorney General to select the judges before whom he would prosecute the case. And it would deny to the defendant the right of a trial by jury.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield.

Mr. STENNIS. Mr. President, I am impressed with the enumeration of the things that the bill would do. I ask the Senator if it is not always true throughout the history of our Government that once power—ordinarily reposed in the people or the State—is picked up, so to speak, by the Federal Government

through the far-reaching operations of a bill, brought to Washington, made a Federal function, a bureau is set up, people are employed to implement those bureaus, agencies, and activities that they have all over the Nation, is it not invariably true that that power grows and grows through successive legislative enactments, or by custom, and that it feeds on itself and never is returned to the people, or to the States? Has that been true in legislative history?

Mr. TALMADGE. The Senator is so correct. I do not recall any government, wherever it may be located, municipal, State, or Federal, that has ever voluntarily relinquished any power that has ever been delegated to it. That is particularly true of the Federal Government. The Senator knows that Congress has on a number of occasions passed acts that were supposed to be temporary in their nature and in their scope. Those acts have a way of being extended and extended year after year. For instance, as the Senator knows, the so-called excise taxes were imposed during the war years to raise money with which to fight the war and to prevent inflation. Yet, a high percentage of those same excise taxes have been renewed year after year. They expire on June 30 this year. Congress will no doubt have the burden of extending them again. I am sure that that action will be recommended.

The Senator knows that several years ago the so-called Civil Rights Commission was created. It was said to be purely temporary in scope. It has been extended twice, I believe, since that time. And this bill now, I believe, would make it permanent, or it started out to make it permanent.

I am sure the Senator has read, as I have, several of the fine books written by Dr. Northport Parkinson, in which he illustrates the theory of government that if you create a bureau with two employees, the two employees will insist that their powers, their duties, their responsibilities, and their salaries be increased. What started out to be a bureau with two employees, in the due course of time will be several thousand employees.

During the war years, the Senator from Georgia had the privilege of serving as flag secretary and aide to the commandant of naval forces for a time in New Zealand. We were directly under Admiral Halsey's command. We received a secret dispatch requesting us to make recommendations as to what personnel could be released in New Zealand for duty in combat areas in forward stations. By that time, Guadalcanal had been secured. We were winning victories at sea almost daily. General MacArthur was advancing with his armies in New Guinea. And New Zealand at that time was truly a remote station. The principal service that it rendered was for rest, relief, and recreation for combat forces in the area, and also for food supplies, and things of that nature for the forces that were fighting in the Pacific.

The commodore sent for me when he received that dispatch. He said, "TALMADGE, I wish you would work on this

1964

## CONGRESSIONAL RECORD — SENATE

11379

and see what we can do about making officers and men available for forward duty." The Senator from Georgia at that time was an officer in the Naval Reserve. And he realized the importance of the duty that had been assigned him by the commanding officer.

I worked on it day and night for about a week. I conferred with various department heads. I conferred with some of the New Zealand authorities. I worked out a plan where we could effectively demobilize about 75 or 85 percent of the naval and military personnel in New Zealand. When I worked out the plan, I brought it to the executive officer to obtain his approval. He studied it and said, "TALMADGE, that is fine." And he initialed his approval on it and said, "Take it to the commodore."

I took it to the commodore. He looked it over and said he thought it was all right. But then he said, "TALMADGE, I want to talk with the public relations officer and with the legal officer about this. He kept it in his basket until he could confer with those two individuals. About that time, the Senator from Georgia received his orders to come back for assignment to duty at another station. His assignment was as the executive officer on the attack transport, APA-97.

After our ship was commissioned and we returned to the South Pacific, I ran into some of my associates with whom I had served in New Zealand. I said to them, "By the way, whatever happened to the dispatch Admiral Halsey sent to the commodore, about making personnel available for forward duty?"

They said, "Well, after he got through talking with the legal office and the public relations officer, they decided they could not spare any personnel in New Zealand, and that they needed additional personnel, instead of making some they already had available for forward stations in combat areas."

I said, "What happened when Halsey received that word?"

They said, "He shipped about 95 percent of those folks out of there, in one fell swoop, and assigned them to duty in forward stations."

I refer to that incident to illustrate the point that unless an iron hand is used in situations of this type, such developments tend to grow and grow and grow. That is particularly true when civilian authority is in command, because such civilians get good jobs, get promotions, are given administrative charge, and obtain seniority rights and retirement benefits; and the lust for office and for power is such that they continue to serve in such capacities and their power grows and grows.

That development bears out what Lord Acton said about the corruption which comes from absolute power. He said "absolute power corrupts absolutely." I think that is true in connection with this bill, too—that such power would corrupt absolutely.

Mr. STENNIS. I thank the Senator from Georgia. He has given a fine illustration from practical life.

I believe he was Governor of Georgia longer than any other Governor of his State.

Mr. TALMADGE. I thank the Senator from Mississippi; but one of the Governors of my State served in that position longer than I did; Joseph E. Brown served as Governor of Georgia from 1860 to 1868. That was in the period of the War Between the States and immediately thereafter. I do not know whether he was elected following 1865, or whether he just obtained the office by appointment by some occupying Yankee general.

I had the honor to serve as Governor for some 6 years and 2 months; and I considered it a great compliment and honor to serve my people.

Mr. STENNIS. The Senator from Georgia served them very well.

During the time he was Governor of the great State of Georgia, did the Federal Government return to his State any of the power the Federal Government had taken away from it?

Mr. TALMADGE. No. On the contrary, the Federal Government made repeated and incessant demands for more and more power. As a matter of fact, while I was a member of the Governors' conference, we established a commission to study Federal-State relations, with a view to trying to cede back to the State governments some of the power the Federal Government had taken from them, and particularly to try to outline some method of taxation whereby the States and the Federal Government would not be taxing the same things—because, as the Senator from Mississippi knows, in the income tax field, for example, prior to our recent tax reduction, the individual income tax rates under the Federal law went as high as 92 percent. When State income taxes were imposed in addition to the 92-percent tax the Federal Government imposed, the result was a virtually impossible situation. In fact, the Federal Government would milk the tax cow dry before the State governments had an opportunity to impose their taxes.

But we were never able to do anything in that field, because, as the Senator from Mississippi knows, the expansion of Federal power is such that it increases year after year.

In the short period of time that I have served in the Senate—I came here in 1957—the Federal budget has increased, if my memory serves me correctly, from approximately \$60 billion a year in 1957 to approximately \$100 billion a year at the present time. That is the way it grows year after year.

But to answer the Senator: If any of these provisions were enacted into law, the only way they could ever be changed would be by revolution. Of course I think that if some of these provisions were written into law, we would well nigh have a revolution in some of the areas of our country, because the people would be bitterly disappointed. They have been told repeatedly that this bill is a kind of "do good" bill to give everyone his rights. I am sure the Senator from Mississippi agrees with me that

every citizen is entitled to have, and should have, his constitutional rights.

Mr. STENNIS. Absolutely.

Mr. TALMADGE. But, as the able Senator from Mississippi also knows, they are adequately enforceable in the courts at the present time, if any are denied their rights.

This bill would do nothing except expand Federal power; it would delegate additional authority to Federal officials, to permit them to harass and annoy citizens in every area of their private life. The bill is not a civil rights bill; it is a bill to regulate the 190 million Americans.

Mr. STENNIS. The Senator from Georgia has stated the matter very well.

In connection with his statement that this trend will continue unless it is stopped by the people, let me recount, before I ask a question, I wish to do this to refresh the Senator's recollection in regard to some of the actions taken by the people in the last few months, although I am sure the Senator from Georgia will recall this—that in the State of Washington two elections were held with reference to proposed city ordinances relating to civil rights and the regulation of the people.

Mr. TALMADGE. Yes; I am sure the Senator from Mississippi is referring to proposed ordinances of the city of Tacoma, Wash., and the city of Seattle, Wash.

Mr. STENNIS. That is correct. One of those proposals was defeated by a vote of 2 to 1; the other was defeated by a vote of 3 to 1.

Mr. TALMADGE. Yes. The proposed ordinance in Seattle was defeated by a vote of 2 to 1; and the proposed ordinance in the city of Tacoma, Wash., was defeated by a vote of 3 to 1. They were in regard to the subject matter of title II of the pending bill, and only that title; they did not relate to the subject matters dealt with in the other 10 titles of the bill.

Mr. STENNIS. There was also a vote in the House of Representatives of the State of Rhode Island; was there not?

Mr. TALMADGE. Yes; the House of Representatives of the State of Rhode Island also defeated what would be the equivalent of title II of this bill.

Mr. STENNIS. The House of Representatives of the State of Rhode Island defeated it by a vote of approximately 2 to 1; did it not?

Mr. TALMADGE. Yes; approximately 2 to 1. I believe the distinguished Senator from Rhode Island confirmed that on the floor of the Senate; and it is in the Record.

Mr. STENNIS. There were also two elections—one in New York and one in Massachusetts—on the question of busing children. Such a provision was at one time included in the bill. In the elections to which I have reference, the trustees there who stood against busing the children from one part of the city to another were reelected by overwhelming votes; were they not?

Mr. TALMADGE. Yes. As I recall, the lady in Massachusetts who was a



member of the school board, and who vigorously opposed the busing of school-children, led the ticket in that election.

Mr. STENNIS. Yes.

Of course, we recall, too, the more recent votes taken when the matter of having the States have control over these questions was the sole issue raised by Governor Wallace, who went a thousand miles from his home State to an area where he was a stranger—Wisconsin, an area far removed from his home State. In Wisconsin, he was without a political ally of any kind; and, as the record shows, he was without a personal friend there, unless it happened that he had two or three friends there. Nevertheless, he received a sizable proportion of the total vote cast there, to the amazement of the people of his home State. He achieved that result in the face of the severest kind of opposition, both political and otherwise; did he not?

Mr. TALMADGE. Yes; I agree with the Senator from Mississippi.

In my judgement, the 43 percent of the total vote in Maryland that Governor Wallace received was cast for him solely because of a grassroots citizens revolt against legislation of the type now before us, and also because of the rabid conduct of some citizens who were depriving other citizens of their rights, by lying on the streets or lying on the sidewalks, and blocking doors, blocking driveways, and so forth.

Mr. STENNIS. Yes; and that situation in Maryland, as well as in the other States in which elections have recently been held, shows unmistakably that this stranger, who received such a large vote, received it because the people of these States do not like the idea of being regulated and controlled by the Federal Government, instead of by their State governments, and do not like the attempts to have all the power taken from the States and lodged in bureaucrats in Washington, D.C.

Mr. TALMADGE. The Senator from Mississippi is eminently correct. I am sure that the Senator from Mississippi is familiar with the effort to enforce the prohibition laws. The Senator will recall that there was a great moral crusade throughout the country to stop people from drinking whiskey. Of course, drinking whiskey is an evil. I am sure the Senator from Mississippi will agree with that.

Mr. STENNIS. Yes.

Mr. TALMADGE. But our experience has been that it could not be regulated by law. Notwithstanding that fact, preachers and many fine citizens insisted that a national prohibition law be passed. The 18th amendment was written into the Constitution of the United States. I remember that when I was a small boy down in Telfair County, Ga., we employed a county policeman to assist the sheriff in enforcing the prohibition laws. There was one county policeman who had shot down nine people whom he had apprehended making whiskey back in the remote swamp areas. The method that he used to enforce the prohibition laws would be to arm himself with at least two pistols, at least one rifle, and a sawed off shotgun. He would find a man mak-

ing illegal whiskey somewhere and he would draw his rifle and shoot him down just as if he were hunting deer or other game.

That was the type of enforcement that was carried on.

The people rebelled. They demanded that the 18th amendment be repealed, which was done in 1933.

My judgment is that if the type of legislation which is proposed is written on the statute books, the reaction will be far more violent than was the reaction to the 18th amendment, because the proposed legislation does not purport to regulate merely what a man drinks, but also where he lives, where he eats, where he sleeps, where he works, and every other area of human conduct. The strong arm of the Federal Government would be brought in to make decisions that normally have been left to the private individual and each man's good judgment and good sense.

Mr. STENNIS. In the opinion of the Senator from Mississippi, it is not known to the people generally that the bill would actually empower the Federal Government, through its agencies, to go out from Washington and invade the premises of people. Agents of the Government could even invade the home of a lady who had as many as six roomers. The bill would regulate whom she could take into her house and whom she could feed. It would regulate whom she could permit to sleep there. As the Senator has said, the bill would actually empower all such actions as the Senator has enumerated, would it not?

Mr. TALMADGE. Of course it would.

Mr. STENNIS. It would give the power to the Attorney General and then make it his duty to carry out those provisions of the bill.

Mr. TALMADGE. The bill would authorize the Attorney General of the United States to say to any widow in America who had a house with six rooms, some of which she rented to boarders, whom she shall have sleep in her own house.

I point out to the able Senator from Mississippi that the third amendment provides that the Government cannot even quarter troops in private homes in time of war without a special act of Congress, and at no time in time of peace. It is inconceivable to the Senator from Georgia that our Founding Fathers, who framed the Constitution, should say that troops could not be quartered in private homes, and yet we would now turn that around and, under the provisions of a bill which is now brought before the Senate, authorize the Attorney General to quarter private citizens in private homes and jail the widow without the right of trial by jury if she refused.

Mr. STENNIS. The Senator has not overstated in the least the purpose of the bill and the power that would flow from it. Under the provisions of the bill as it is now written, an agent of the Government could enter a little business, a small factory, or a store, if it had 25 or more employees, and tell the proprietor whom he might employ, whom he might discharge, and even whom he might pro-

mote in operating that private business. Is that not true?

Mr. TALMADGE. That is true. The Senator from Mississippi did not cover it all. The agents could assign jobs within a business. They could determine whom the employer could hire and promote. They could determine whom the employer could assign to various jobs in the business, and whom he could discharge. The bill would affect every area of employment in businesses having 25 or more employees, and it would divest the employer of his free right to employ whomever he saw fit to employ, and to decide who could best assist in the operation of his business. It would deprive the prospective employee of the right to choose his own associates and decide where he wanted to work. It would deny the rights of labor unions to make collective bargaining agreements and to have their own business agent fill jobs when vacancies arose.

Imagine a situation involving a small business in which 25 people might be employed. Suppose a vacancy arose in that business and five people applied for the job. Suppose, further, that one of the applicants was Chinese, another was Japanese, still another was a Baptist, one a Jew and one a Negro. One of those people would have to be employed. If the manager of such a business employed one of them, he would be letting himself in for a lawsuit brought by any of the other four, because everyone of them would have a right to contend that he had been discriminated against under the terms of the bill. Such action would authorize the Attorney General to file suit against the proprietor, and the businessman could be put in jail without the right of a jury trial for discriminating against someone. One hundred mindreaders would be required to determine whether or not the employer had discriminated against anyone, because no one but the man who hired the successful applicant would know what his motivation was in employing any particular individual.

Mr. STENNIS. And in all of that process, what the owner of the business might think was best for his business—

Mr. TALMADGE. He would not have anything to do with it.

Mr. STENNIS. He would be lost in the shuffle.

Mr. TALMADGE. The Government would take charge. The owner of the business, the employer, would be merely a bystander, hoping that he would not be run over by the Government in the process.

Mr. STENNIS. Before the Senator concludes his speech, since he is the author of the pending amendment, which would guarantee the right of trial by jury to anyone who might be charged with criminal contempt in connection with the enforcement of the proposed legislation, I wish to ask him one particular question with reference to his amendment. The argument is often made against the Senator's amendment that the court must have ample power to require obedience to its writs, its summonses, its mandates, and its orders. Did not the Senator amply provide full protection to every court under all those



1964

## CONGRESSIONAL RECORD — SENATE

11381

circumstances when he wrote into his amendment the following language which I shall read in order to make the point clear in the Record and also to call it to the attention of the Senate? I read from page 3 of the Senator's amendment No. 513, beginning at line 17:

This section shall not apply to contempt committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to writs, orders, or process of the court.

Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

That is the Senator's language. Will the Senator explain that provision of his amendment in his own fine and clear way so that Senators may know what it is and what the intentions of the Senator were, and so that the provisions may be unmistakably and clearly known so that there can be no question about them? I understand that is settled law. Will the Senator answer that inquiry?

Mr. TALMADGE. The Senator from Mississippi is eminently correct. He is a cosponsor of the amendment, and was a distinguished jurist before he came to the U.S. Senate, as well as a distinguished lawyer. So he is completely aware of the powers of courts of equity. There is a distinction between civil contempt and criminal contempt.

When a judge orders something to be done, if the individual does not carry out his order, it is within the power of the court to imprison him or take such action as is necessary to compel the defendant to comply with the order of the court. That is known as civil contempt.

The most common practice, of course, arises in situations in which a judge orders the defendant imprisoned until he carries out the order of the judge. The defendant would remain in prison until he executed the order of the court. When he executed the order of the court, he would be released from prison, a free man. He could be detained in jail as long as the judge thought necessary to insure compliance with his particular order.

Criminal contempt is entirely different. Criminal contempt is a judge-ordained, judge-made, judge-prosecuted, and judge-executed crime. It occurs when a judge hauls a man up before him and says, "You disobeyed my court order. I am going to put you in jail for 2 years." He is put in prison. The judge can impose such sentence as he sees fit, so long as it does not violate the eighth amendment, which prohibits cruel and unusual punishment.

As the able Senator knows, the Constitution of the United States guarantees the right of trial by jury in four different places for all crimes. The language does not read "some crimes," or "big crimes," or "intermediate crimes." It says "all crimes." Criminal contempt is a crime

defined by a judge to be a crime. A judge can put a man in jail for criminal contempt. The prisoner can have a prison record for the remainder of his life. A judge can impose a fine. He can dispossess a defendant of his worldly goods.

In my judgment, it is within the meaning of the Constitution that, if a person can be tried for a crime, he should have the right of trial by jury. The Senate, by a vote of 51 to 42 in 1957, sustained that same amendment, paragraph for paragraph, line for line, word for word.

The late President John F. Kennedy was one of its sponsors. Our distinguished majority leader [Mr. MANFIELD], who now sits in the chair in front of the distinguished Senator from Mississippi, was one of the sponsors. The then majority leader of the Senate, Lyndon B. Johnson, now President of the United States, vigorously supported it and made the concluding speech for it.

It was good law then. It was good sense then. It is good law now. It is good sense now. I hope the Senate will uphold the greatest civil liberty mankind has ever known, which is the right of trial by a jury of one's peers.

It is a travesty indeed that the Senate should even be considering a so-called civil rights bill which in five different titles would deny the people the right of trial by jury. It is unthinkable to the Senator from Georgia that in this enlightened day, we should turn the clock back to star chamber trials, trial by inquisition and torture, as once practiced in England, as the Senator from Georgia has said this afternoon.

Mr. STENNIS. Would this bill not deny the greatest civil right that has developed under our system, namely, the right of trial by jury in criminal cases?

Mr. TALMADGE. The Senator is entirely correct. As the great Winston Churchill said, the right of trial by jury is the difference between freedom and slavery. And it is.

Mr. STENNIS. The Senator's amendment would not restrict the court in any way in its power to demand the carrying out of its commands and orders and the power to keep a man in jail until he obeys. No jury trial is involved in such cases, and the power of the court is plenary. Is that correct?

Mr. TALMADGE. The Senator is entirely correct.

Mr. STENNIS. I thank the Senator for yielding. He is making a fine presentation.

Mr. TALMADGE. I thank the Senator for his penetrating questions, which will shed light on the issue before the Senate at the present time.

Mr. President, I have attempted this afternoon to trace some of the history of the right of trial by jury.

Freedom did not blossom overnight. Its growth has been a long and tortuous struggle. I have recited this afternoon some of the problems the people had in England, leading up to the Magna Carta, and to some of the problems that led to the Declaration of Independence and the Constitution of the United States.

After the struggle of thousands of years

to obtain liberty, I hope the Senate will not now say that the need for liberty has passed; that we are about to vest all the power in a Federal judge, appointed for life, to say that he does not need a jury, that he knows best, that he and the Attorney General can handle all our problems. I hope it will not be said, "Let us strike down Magna Carta. Let us strike down Thomas Jefferson's Declaration of Independence. Let us strike down the Constitution of the United States. Let us now vest this power in a Federal judge, appointed for life. He and a wise Attorney General can handle the problems of the people better than all the great leaders in human history, who sacrificed their nations and the blood of patriots for hundreds of years to achieve the greatest human right that mankind has ever achieved—the right of trial by jury."

## THE CIVIL RIGHTS BILL AND SOUTH DAKOTA

Mr. McGOVERN. Mr. President, congressional mail is sometimes a valuable indication of the depth of feeling on national issues of the people we represent in the Congress.

No issue in recent years has called forth the volume of mail that now descends on Washington both praising and condemning the civil rights bill.

I would not claim to speak for other States, but the mail from South Dakota has been running 2½ to 1 in favor of the bill. Furthermore, the proportion of favorable mail has been increasing steadily in recent weeks.

Considering the natural tendency of people to write when they oppose a measure and remain silent when they are in favor, I consider this an overwhelming endorsement of the civil rights bill by the people of my State. Those who favor the bill seem to be motivated primarily by religious or moral conviction.

Those who fear the consequences of passage of the civil rights bill very often are misinformed about the contents of the bill. They have often been misled by organized propaganda efforts. Through newspaper advertisements and circulars, the opponents of the bill have created a picture of a monstrous Federal power eagerly awaiting the chance to swoop down on the hapless citizen and snatch away his rights.

As a matter of fact, the civil rights bill now before the Senate would have very little impact in South Dakota, for two very good reasons:

First. The number of Negroes in South Dakota is small. Discrimination against our Indian minority has long since been widely condemned and State action taken to eliminate its remnants.

Second. South Dakota already has a law on the books covering the most sensitive portion of the proposed civil rights bill—the right of all persons, regardless of race, to free access to public accommodation. The South Dakota law is far more sweeping than the bill before Congress and provides much stiffer penalties for violations. The South Dakota law has not brought disaster to the State—

11382

## CONGRESSIONAL RECORD — SENATE

May 22

indeed, I would venture to guess that most people in the State are totally unaware of its existence. Neither would the civil rights bill now before Congress create any serious difficulty.

Chapter 58 of the 1963 Sessions Laws of South Dakota states:

No person shall be excluded on account of race, color, religion, or national origin from full and equal enjoyment of any accommodation, advantage, or privilege furnished by public conveyances, theaters, or other public places of amusement, or by hotels, motels, barbershops, saloons, restaurants, or other places of refreshment, entertainment, or accommodation.

The South Dakota law covers many places that are excluded from coverage under the Federal bill, such as barbershops, bowling alleys, and small motels. Moreover, while the Federal bill provides only civil remedies in the form of injunctive relief, the South Dakota statute is enforceable by criminal sanctions, with fines up to \$200.

I would like to go through the proposed Federal civil rights bill title by title to demonstrate the constructive and restrained character of the legislation, and to quiet the unjustified fears held by some people in my State and across the Nation:

Title I of the Federal bill deals with voting rights and eliminates the opportunities that now exist in some States for discrimination in voting. South Dakota has no literacy test for voting and in fact there has never been any indication of discriminatory voting practices in the State. Therefore, title I would have no impact in South Dakota.

Title II would prevent discrimination in certain places of public accommodation. Since South Dakota already has a law far broader than the proposed Federal statute, and since the South Dakota law would take precedence in all cases, title II would not have any effect in South Dakota.

Title III provides new tools by which the Attorney General can prevent discriminatory treatment at facilities owned by State and local governments, such as public parks, libraries, and municipal golf courses. Since there are no known instances in South Dakota in which use of publicly owned or operated facilities has been denied because of race, color, or religion, title III would have no meaningful application in our State.

Title IV provides new tools for eliminating unconstitutional segregation in public schools. Since there is no unconstitutional segregation in South Dakota schools, title IV would not be relevant in South Dakota.

Title V would extend the life of the Federal Civil Rights Commission for another 4 years. This Commission has no enforcement powers but is simply an information-gathering organization. Title V will therefore have no specific application within South Dakota.

Title VI would withhold Federal funds from programs which are segregated. Agricultural subsidies and other farm benefits would not be subject to termination because of any discriminatory employment practices by farmers. Neither would the law affect social security or

veterans' pensions, FHA or VA mortgage insurance or guarantee programs, or Federal insurance of bank and savings and loan deposits. Since there is no known discrimination in federally assisted programs in South Dakota, title VI would have no effect in South Dakota.

Title VII seeks to eliminate discrimination in employment because of race or color. It would create a Federal Equal Employment Opportunity Commission with power only to seek voluntary compliance with its orders. Court suits could be filed only after voluntary efforts failed. The Federal Civil Rights Commission has found virtually no instances of employment discrimination against Negroes in South Dakota. It has found evidence of some discrimination against Indians, but the State commission on Indian affairs has been working on this problem for some time. Since South Dakota is already taking action to eliminate what little employment discrimination exists in the State, title VII will have very little practical effect in South Dakota.

Titles VIII, IX, X, and XI of the civil rights bill are procedural only. They relate to the compiling of statistics on voting registration, to the removal of civil rights cases from State to Federal courts, to the establishing of a Community Relations Service, to help solve racial disputes on a voluntary basis, and to the express provision that State laws shall take precedence when they cover a particular situation.

This is all there is to the civil rights bill. The horrendous powers claimed for it by its opponents simply do not exist.

The bill does not affect homes or apartments or small boarding houses.

The bill does not take away anyone's right to jury trial. To the extent it deals with jury trial at all, the bill gives a right to jury trial where it would not otherwise exist.

The bill does not tell businessmen that they must serve, or hire or fire any particular individual; retailers remain wholly free to refuse to serve the drunk, the disorderly, the unkempt, and so forth, and employers remain wholly free to hire, fire, and promote on the basis of ability and qualifications. All that is prohibited is discrimination on grounds of race, religion, or national origin.

The bill does not cover all retailers. It applies only to certain designated places—hotels, motels, restaurants, lunch counters, gasoline stations, movie theaters, concert halls, and the like—all public commercial establishments which are established to serve, and invite the patronage of, the general public.

The bill does not cover private clubs, professions, or service establishments. The practice of doctors, lawyers, and realtors is not affected by the bill.

The bill does not create any hiring quotas.

The bill does not affect union seniority. The bill does not require the firing of whites in order to hire Negroes.

The bill does not affect social security or veterans' pensions or bank deposit insurance.

The bill does not permit massive or wholesale cutoffs of Federal assistance.

The bill does not give the Attorney General any unusual powers; he is authorized merely to sue in the Federal courts to enforce constitutional and other basic rights.

The bill does not give great powers to the Federal Government—in every instance, first reliance is placed on State and local authorities to deal with illegal discriminatory practices.

In short, all the bill actually does do, even in areas in which discrimination is most prevalent, is to try to assure for all of our citizens the rights and opportunities which most of us take for granted.

Why is this legislation necessary? Because in this country we believe that every man is entitled to the same opportunities, the same rights, and the same privileges that are accorded each of his fellow Americans. For many Negro citizens today this is not the case. It is still true that a Negro cannot always choose his hotel and restaurant the way a white person can, he cannot always go to the church he would like to attend, or send his children to the schools he would like to see them attend, or live where he would like to live, or get a job when he is qualified for that job. White persons have these rights, and unless we grant them to our Negro citizens also, this Nation cannot in good conscience call itself free and democratic.

In South Dakota, thanks to the good will of the vast majority of its citizens, instances of discrimination are rare. Some problems still exist regarding our Indian citizens, but steps are being taken, with the overwhelming support of South Dakotans, to solve them.

The civil rights law will not be the final answer to problems in this country. The treatment of our fellow citizens is primarily a moral question, and years of education and soul searching remain before this Nation is truly a land of opportunity for all, regardless of race. But the passage of this law will give us new tools with which to pursue our goal of equal dignity for all men. We have delayed too long already. Let us delay no longer.

#### VISIT TO THE SENATE BY THE MELLO-MACS OF PORTLAND, OREG.

Mr. MORSE. Mr. President, today the Oregon delegation of Congress is being visited by a group of wonderful songsters from Portland, Oreg., known as the Mello-Macs. It is a wonderful chorus from the Multnomah Athletic Club under the direction and leadership of one of our outstanding song directors in the Northwest, Bruce Kelly. During the noon period this group of 60 lovely women singers presented a program at the rotunda of the Old Senate Office Building. I wish to say in behalf of the Oregon delegation that we have always been very proud of our State, but today the Mello-Macs made us boastfully proud, for they presented a concert that was enjoyed by all of those who were fortunate enough to be privileged to hear it.

Mr. President, they sang yesterday and the day before at the World's Fair. They also sang at the State Depart-